



City of Denton

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

Meeting Agenda

City Council

Tuesday, September 9, 2025

2:00 PM

Council Work Session Room
&
Council Chambers

SPECIAL CALLED

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

CITY COUNCIL CONSIDERATION OF THE CONSENT AGENDA AND ITEMS FOR INDIVIDUAL CONSIDERATION WILL BEGIN IMMEDIATELY FOLLOWING THE CLOSED MEETING IN THE COUNCIL CHAMBERS

CONSIDERATION OF THE PUBLIC HEARING(S) WILL CONVENE AT 6:30 P.M.

REGISTRATION GUIDELINES FOR ADDRESSING THE CITY COUNCIL

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

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, September, 9, 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 25-1378](#) Meeting Questions, Responses & Handouts

Attachments: [Exhibit 1 - Agenda Information Sheet](#)

3. Work Session Reports

- A. [ID 25-1536](#) Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 Annual Internal Audit Plan.

[Estimated Presentation/Discussion Time: 30 minutes]

Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
 [Exhibit 2 - Fiscal Year 2025-26 Audit Plan Proposals Memo.pdf](#)
 [Exhibit 3 - Presentation.pdf](#)

- B. [ID 25-1366](#) Receive a report, hold a discussion, and give staff direction on an update to the City's Inclement Weather Policy.
 [Estimated Presentation/Discussion Time: 1 hour]

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Presentation](#)
 [Exhibit 3 - Use of City Facilities for Inclement Weather](#)

- C. [ID 25-1566](#) Receive a report, hold a discussion, and give staff direction regarding the City Manager's Proposed FY 2025-26 Budget.
 [Estimated Presentation/Discussion Time: 1 hour]

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Presentation](#)
 [Exhibit 3 - Budget Follow Up Memo](#)

- D. [ID 25-033](#) Receive a report, hold a discussion, and give staff direction on pending City Council requests for:

- 1) Uniformity of board and commission member terms
 [Estimated Presentation/Discussion Time: 30 minutes]

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Ordinance 24-1725](#)
 [Exhibit 3 - Presentation](#)

Following the completion of the Work Session, the City Council will immediately convene in the Special Called Meeting in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas for consideration of the Consent Agenda and Items for Individual Consideration. Consideration of the Public Hearing(s) will convene at 6:30 p.m.

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. 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').

NOTE: Any item for which a formal action at the Special Called 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.

AFTER DETERMINING THAT A QUORUM IS PRESENT, THE SPECIAL CALLED MEETING OF THE CITY OF DENTON CITY COUNCIL WILL CONVENE IN THE COUNCIL CHAMBERS AT CITY HALL, 215 E. MCKINNEY STREET, DENTON, TEXAS FOR CONSIDERATION OF THE CONSENT AGENDA AND ITEMS FOR INDIVIDUAL CONSIDERATION IMMEDIATELY FOLLOWING THE WORK SESSION MEETING. CONSIDERATION OF THE PUBLIC HEARING(S) WILL CONVENE AT 6:30 P.M.

1. 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 – Y). 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 25-1591](#) Consider approval of a resolution of the City of Denton confirming the appointment of Ingrid Rex as the Interim City Secretary; and providing an effective date.
- Attachments:* [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Resolution](#)
- B. [ID 25-066](#) Consider approval of the minutes of the August 9, 2025, Budget Workshop Meeting and the August 19, 2025, Regular Meeting.
- Attachments:* [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - August 9, 2025 Minutes](#)
[Exhibit 3 - August 19, 2025 Minutes](#)
- C. [ID 25-1575](#) Consider a nomination/reappointment to the Denton Police Department Chief of Police Advisory Board.
- Attachments:* [Exhibit 1 - Agenda Information Sheet](#)
- D. [ID 25-1571](#) Consider a nomination/reappointment to the Denton Police Department Chief of Police Advisory Board.
- Attachments:* [Exhibit 1 - Agenda Information Sheet](#)
- E. [ID 25-1569](#) Consider a nomination/reappointment to the City of Denton Library Board.
- Attachments:* [Exhibit 1 - Agenda Information Sheet](#)

- F. [ID 25-1572](#) Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- G. [ID 25-1576](#) Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- H. [ID 25-1568](#) Consider a nomination/reappointment to the City of Denton Public Utilities Board.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- I. [ID 25-1570](#) Consider a nomination/reappointment to the City of Denton Zoning Board of Adjustment.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- J. [ID 25-1635](#) Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- K. [ID 25-1636](#) Consider a nomination/appointment to the City of Denton Historic Landmark Commission.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- L. [ID 25-1574](#) Consider a nomination/reappointment to the City of Denton Sustainability Framework Advisory Committee.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
- M. [ID 25-1486](#) Consider approval of a resolution authorizing the City Manager to sign a Memorandum of Understanding with the City of Arlington, City of Fort Worth, Dallas Fort Worth International Airport, Perot Field, and the City of Mineral Wells regarding the development of an airport coalition of take-off and landing locations for electric vertical take-off and landing (eVTOL) vehicles; and providing an effective date. Airport Advisory Board recommends approval (5-0).
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Resolution](#)
[Exhibit 3 - Memorandum of Understanding](#)
- N. [ID 25-1499](#) 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 Mountain Cascade of Texas, LLC, for the construction and movement of public water/wastewater utilities in support of TxDOT's FM 1515 widening from I-35 Frontage Road to Westcourt Road for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (IFB 7968-007 – awarded to Mountain Cascade of Texas, LLC, in the not-to-exceed amount of \$4,987,742.55). The Public Utilities Board recommends approval (5 - 0).

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

- O. [ID 25-1500](#) Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Enverus, Inc., for load and renewable forecasting services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date. (RFP 8800 – awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$255,000.00). The Public Utilities Board recommends approval (5 - 0).

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

- P. [ID 25-1501](#) 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 Enverus, Inc., for Market Fundamentals and Analytics Services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8843 – awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$247,500.00). The Public Utilities Board recommends approval (5 - 0).

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

- Q. [ID 25-1502](#) Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8716 for the DME Compensation Study for the Human Resources Department; and providing an effective date (RFP 8716).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Ordinance](#)

- R. [ID 25-1503](#) 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 Safe Software Inc., for the purchase of the Feature Manipulation Engine (FME) for the Technology Services 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 8756 - awarded to Safe Software Inc., for one (1) year, with the option for three (3) additional one (1) year extensions, in the total four (4) year not-to-exceed amount of \$125,000.00).

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

- S. [ID 25-1504](#) 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 Boot Barn, Inc., for

the citywide full service boot program for various city departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8769 - awarded to Boot Barn 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 \$750,000.00).

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

- T. [ID 25-1505](#) 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 SHI Government Solutions, Inc., through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 230105, for the procurement of the NEOGOV Suite for the Human Resources Department; providing for the expenditure of funds therefor; and providing an effective date (File 8893 - awarded to SHI Government Solutions, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,136,407.66).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Quote](#)
 [Exhibit 3 - Ordinance](#)

- U. [ID 25-1538](#) 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 Zencity Technologies US, Inc., for a centralized community engagement and community sentiment software for the Marketing and Communications Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8852 - awarded to Zencity Technologies US, 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 \$400,000.00).

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

- V. [ID 25-1540](#) 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 Techline, Inc., for the purchase of transmission hardware supplies to be stocked in the City of Denton Warehouse; providing for the expenditure of funds therefor; and providing an effective date (IFB 8872 - awarded to Techline, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,500,000.00).

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

- W. [ID 25-1541](#) 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 Doggett Freightliner

of South Texas, LLC, through the Buy Board Cooperative Purchasing Network Contract Nos. 687-22 and 723-23, for purchases, maintenance, and repairs of medium-duty and heavy-duty trucks for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8873 - awarded to Doggett Freightliner of South Texas, 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 \$4,303,585.00).

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

- X. [ID 25-1547](#) Consider adoption of an ordinance by the City of Denton authorizing the City Manager to execute a Gas Line Rearrangement and Abandonment Agreement with EnLink North Texas Gathering, LP (“EnLink”), for the relocation of a 6-inch gas pipeline (DC-320), (“EnLink Facilities”), for the City’s Hickory Creek Road Phase 3 Widening and Realignment Project; providing for the expenditure of funds in the not-to-exceed amount of Three Hundred Twenty-Five Thousand Twenty-Three Dollars (\$325,023.00); authorizing the expenditure of funds therefor; and providing an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Ordinance and Agreement](#)

- Y. [ID 25-1592](#) Consider adoption of an ordinance of the city council of the City of Denton, Texas, approving a negotiated settlement between the Atmos cities steering committee (“ACSC”) and Atmos Energy Corp., Mid-Tex division regarding the company’s 2025 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel.

Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
[Exhibit 2 - Ordinance](#)
[Exhibit 3 - RRM Tariffs](#)
[Exhibit 4 - Atmos Pension and Retiree Benchmark](#)
[Exhibit 5 - Atmos Average Bill](#)

2. PUBLIC HEARINGS

- A. [ID 24-2622](#) Hold a public hearing and receive citizen input on the FY 2025-26 Proposed Budget.
TAXPAYER IMPACT STATEMENT
FISCAL YEAR 2025-26
This taxpayer impact statement is required by Government Code § 551.043(c) to be

posted on the notice of a meeting at which a governmental body will discuss or adopt a budget for the governmental body.

This Taxpayer Impact Statement shows the median-value homestead property in the City of Denton, a comparison of the property tax bill in dollars pertaining to the property for the current fiscal year to an estimate of the property tax bill in dollars for the same property for the upcoming fiscal year.

Taxpayer Impact Statement	FY 2025 Adopted	FY 2026 No-New-Revenue Tax Rate	FY 2026 Proposed
Total tax rate (per \$100 of value)	\$0.585420	\$0.554279	\$0.595420
Median homestead taxable value	\$379,836	\$386,698	\$386,698
Tax on average homestead	\$2,223.64	\$2,143.39	\$2,302.48
Difference to Current Year Tax Bill		(\$80.25)	\$78.84

- Attachments:** [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - 2025 Notice of Budget Hearing](#)
 [Exhibit 3 - Presentation](#)

- B. [ID 24-2623](#)** Hold a public hearing on proposed property tax increase that will not exceed \$0.605420 per \$100 valuation. The proposed rate will exceed the no new revenue tax rate (\$0.554279 per \$100) but will not exceed the voter-approval tax rate (\$0.610157 per \$100).

- Attachments:** [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - 2025 Notice of Proposed Tax Rate](#)
 [Exhibit 3 - Presentation](#)

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [ID 25-1498](#)** Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract and lease agreement with Mayhill Renewables, LLC, to design, fabricate, construct, commission, and operate a Renewable Natural Gas (RNG) Facility to treat landfill and digester gas at the City of Denton Landfill for the Solid Waste and Water Utilities Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8465 – awarded to Mayhill Renewables, LLC, for a primary construction phase and twenty (20) year term). The Public Utilities Board recommends approval (5 - 0).

- Attachments:** [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Pricing Evaluation](#)
 [Exhibit 3 - Lease Agreement](#)
 [Exhibit 4 - Presentation](#)
 [Exhibit 5 - Ordinance and Contract](#)

- B. [ID 25-1520](#)** Consider approval of a resolution of the City of Denton nominating members to the Board

of Directors of the Denton Central Appraisal District; and providing an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
 [Exhibit 2 - Resolution.pdf](#)
 [Exhibit 3 - DCAD Memo.pdf](#)
 [Exhibit 4 - Presentation.pdf](#)

4. 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, if applicable in accordance with Texas Government Code, Section 551.001, et seq.

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 September 3, 2025, in advance of the three (3) business day posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code. A revised version was posted on September 9, 2025.

OFFICE OF THE CITY SECRETARY

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



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
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Legislation Text

File #: ID 25-1378, **Version:** 1

AGENDA CAPTION

Meeting Questions, Responses & Handouts



AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: September 9, 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



City of Denton

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

Legislation Text

File #: ID 25-1536, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 Annual Internal Audit Plan.

[Estimated Presentation/Discussion Time: 30 minutes]

City of Denton



City Hall
215 E. McKinney Street
Denton, Texas
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AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: September 9, 2025

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 Annual Internal Audit Plan.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

BACKGROUND

The City Auditor's Office is responsible for conducting audits to assess various risks, including internal control weaknesses, inefficiencies in City operations, ineffectiveness of City programs, and noncompliance with laws, regulations, and policies. Each year, an annual internal audit plan is prepared and presented to establish the workload of the City Auditor's Office.

The attached memorandum details the potential options for new audit projects and follow-up reviews. The new audit project options were developed based on a partial risk assessment conducted in 2025, emerging trends in the industry, and discussions with City leadership. In addition, input on the selection of new audit project options was solicited from 175 Denton residents between August 18 and August 29, 2025.

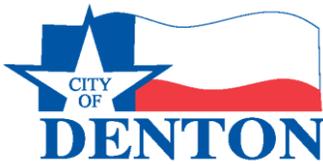
PRIOR ACTION/REVIEW (Council, Boards, Commissions)

None.

EXHIBITS

1. Agenda Information Sheet
2. Fiscal Year 2025-26 Annual Internal Audit Plan Memo
3. Presentation

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



MEMORANDUM

DATE: September 9, 2025
TO: Honorable Mayor and Members of the City Council
FROM: Madison Rorschach, City Auditor *Madison Rorschach*
SUBJECT: Fiscal Year 2025-26 Annual Internal Audit Plan Projects

The City Auditor's Office is responsible for providing independent and objective reviews of City functions. These are mainly performed as performance audits, which assess City functions and identify various risks, including internal control weaknesses, inefficiencies in City operations, ineffectiveness of City programs, and noncompliance with regulations. Each year, the City Auditor prepares a list of audit project options and presents them to the City Council for direction. The selected projects are then approved via ordinance to set the workload for the Office in the upcoming fiscal year.

Based on available resources, the City Auditor's Office is dedicating 2,400 hours to audit projects during Fiscal Year 2025-26.

New Audit Projects Proposals

The following new audit project proposals were developed based on a risk assessment of City functions, emerging trends in the industry, and discussions with City leadership.

Table 1: Fiscal Year 2025-26 Potential Audit Projects

Audit Projects	Resident Priority	Audit Weighted Risk Score ¹	Covers New Function?	Project Hours
Jail Operations	High	68		500
Financial Planning	Critical	65		600
Vehicle Management	Medium	60		600
Climate Resiliency	High	50	Yes	700
Volunteer Management	Low	53	Yes	400
Airport Operations	Medium	53	Yes	500
Tourism Initiatives	Medium	45	Yes	400
Library Operations	Medium	33	Yes	600

The following pages include descriptions of each audit project proposal and its objectives for your reference:

¹ Risk categories are weighted as follows: Financial 40%; Operational 30%; Regulatory 20%; and Reputational 10%.

Jail Operations – The City of Denton operates a medium-security facility that houses up to 25 inmates awaiting trial or serving short-sentences for misdemeanors or minor felonies. It is critical that inmates remain safe and secure, and that accurate records are maintained to ensure their rights are appropriately protected. This audit would evaluate the effectiveness, efficiency, equity, and regulatory compliance of jail operations including booking procedures, detention activities, and release processes.

Estimated time to complete: 500 Hours

Financial Planning – The City of Denton spends over \$2 billion annually to construct and maintain public works, promote public health and safety, and provide utility services. Financial planning is the process of ensuring adequate resources are available to fund these services as expenses are incurred. This audit would evaluate the effectiveness, efficiency, economy, and compliance of the City's financial planning activities including budgeting, investment management, and debt management.

Estimated time to complete: 600 Hours

Vehicle Management – The City of Denton owns almost 1,000 vehicles that are used by almost all operations throughout the City. This audit would evaluate the effectiveness, efficiency, and economy of the City's vehicle management activities, including the procurement life cycle, usage practices, and maintenance.

Estimated time to complete: 600 Hours

Climate Resiliency – In 2022, the City of Denton recognized the importance of climate action and resilience at the local level to address the City's fair share of carbon emissions. In addition, the City adopted the Simply Sustainable Framework and Climate Action Plan in 2012 (updated in 2020) and 2024, respectively. This audit would evaluate the effectiveness, efficiency, and equity of the City's ability to adapt its operations to prepare for and respond to the impacts of climate change on natural resources, public health, and infrastructure, including weather-related preparedness activities, conservation incentive program management, and long-range natural and physical infrastructure planning.

Estimated time to complete: 700 Hours

Volunteer Management – Several City functions rely on volunteers to ensure operations run smoothly such as Animal Services, Parks and Recreation, Library Services, and the City's Council-appointed boards and commissions. This audit would evaluate the effectiveness, equity, and regulatory compliance of the City's volunteer programs including recruitment, retention, and risk management.

Estimated time to complete: 400 Hours

Airport Operations – The Denton Enterprise Airport annually collects about \$1.5 million in leases, commissions, and gas royalties. This audit would review Denton Enterprise Airport's processes to ensure revenue is collected effectively for these airport operations and verify that fixed business operations comply with contract conditions.

Estimated time to complete: 500 Hours

Tourism Initiatives – Annually, the City receives about \$3.5 from hotel occupancy taxes in revenue, which can only be used to promote tourism and the convention and hotel industry per State law. This audit would review the effectiveness, equity, and regulatory compliance of the City's tourism initiatives including hotel occupancy tax usage and marketing activities.

Estimated time to complete: 400 Hours

Library Operations – The City of Denton operates three public libraries located throughout the City, which offer a variety of physical items, services, and community programming. In addition, the Denton Public Library system provides digital resources and collections for library cardholders. This audit would evaluate the effectiveness, efficiency, economy, and equity of library operations, including facility planning and usage, collection management, and program offerings.

Estimated time to complete: 600 Hours

Existing Audit Projects

Overflow Projects – The Audits of City-Wide Overtime and Employee Performance Management were authorized on the Fiscal Year 2024-25 Annual Internal Audit Plan and were initiated in July and August 2025 respectively. These projects are being carried over into Fiscal Year 2024-25 for completion.

Estimated time to complete: 400 Hours

Follow-Up Reviews – Follow-up reviews are intended to provide information on what changes were made in response to an issued audit. Initial follow-up reviews are typically performed between six to thirty-six months after a new audit report has been published. Due to changes to the Fiscal Year 2024-25 Audit Plan, a significant number of follow-up reviews schedule for completion that year were pushed. Based on this, the City Auditor's Office has prepared three follow-up plan options for review that impact the number of new audit projects that can be complete as detailed in Table 2:

Table 2: Follow-Up Review Plan Options

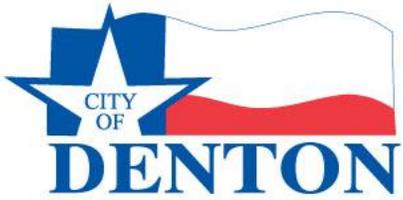
Project	Published	Hours	Option 1	Option 2	Option 3
Capital Project Administration	May 2020	50	Yes	Yes	Yes
Grants Management	Jun. 202	50	Yes	Yes	
Energy Portfolio Management	Mar. 2022	100	Yes	Yes	
Wastewater System Ops.	Apr. 2022	75	Yes	Yes	Yes
Network Management	Jul. 2022	125	Yes	Yes	Yes
Solid Waste Operations	Dec. 2022	125		Yes	Yes
Body-Worn Camera Usage	Jan. 2023	50	Yes	Yes	Yes
Pedestrian & Cyclist Safety	Sep. 2023	100		Yes	Yes
Fire Prevention	Sep. 2023	75		Yes	Yes
Public Safety Communications	Dec. 2023	50		Yes	
Staff Recruiting & Hiring	Mar. 2024	100		Yes	Yes
Franchise Fee Collections	Apr. 2024	75		Yes	
Estimated Hours Needed:			450	975	700

Council Directed Consultation Projects

Most non-audit services that the City Auditor's Office completes are consultation services requested from City Management or investigative services in response to a received complaint. However, the City Council may direct the City Auditor's Office to perform consultation services as part of the Annual Internal Audit Plan. The following new project would result in the creation of informational reports.

Annual City Council Travel Expense Compliance Review – This project was completed for the first time in Fiscal Year 2025 in response to a two-minute pitch. The review would include (1) verification of travel expense approval appropriateness, (2) evaluation of travel expense support documentation adequacy, and (3) assessment of travel expense report submission timeliness.

Estimated time to complete: 25 Hours



Fiscal Year 2025-26 Internal Audit Plan

Madison Rorschach

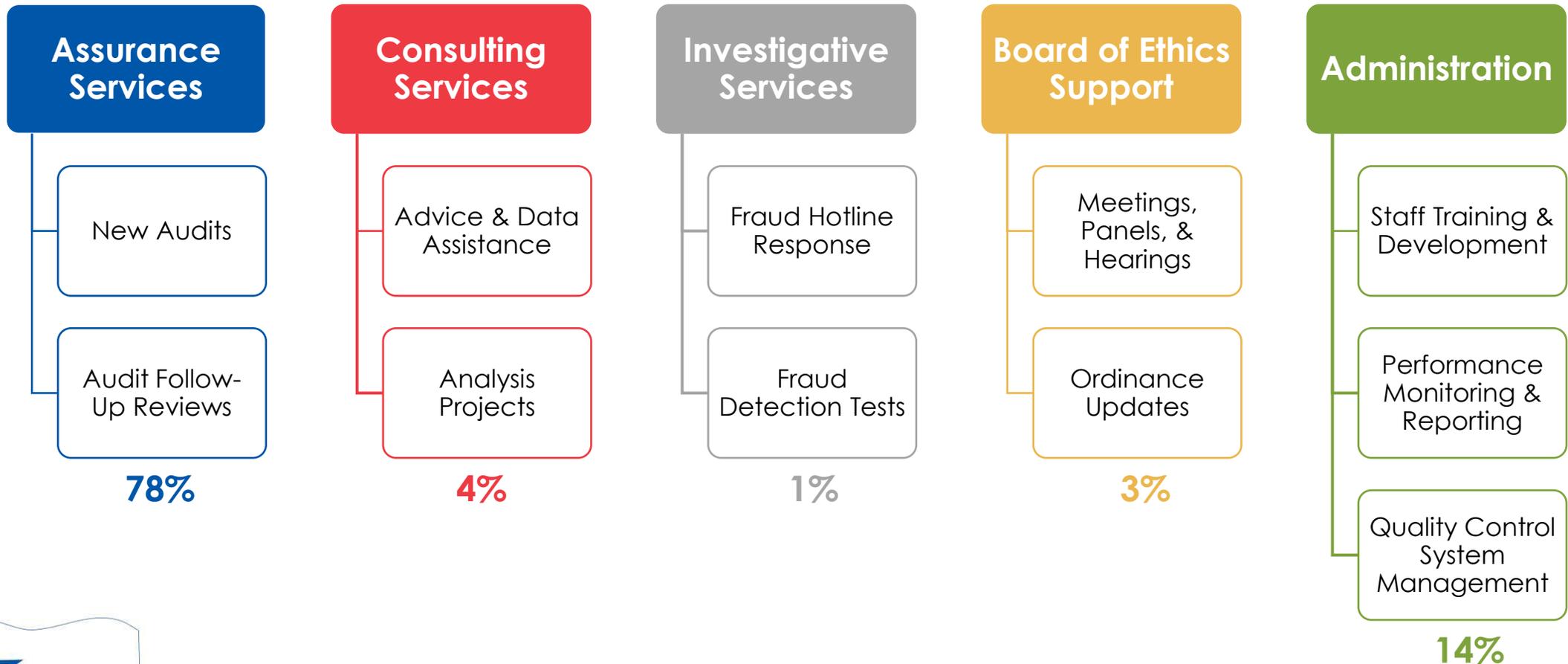
September 9, 2025

City Auditor

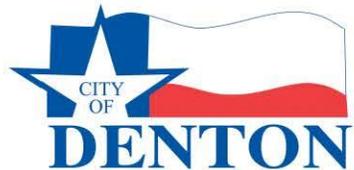
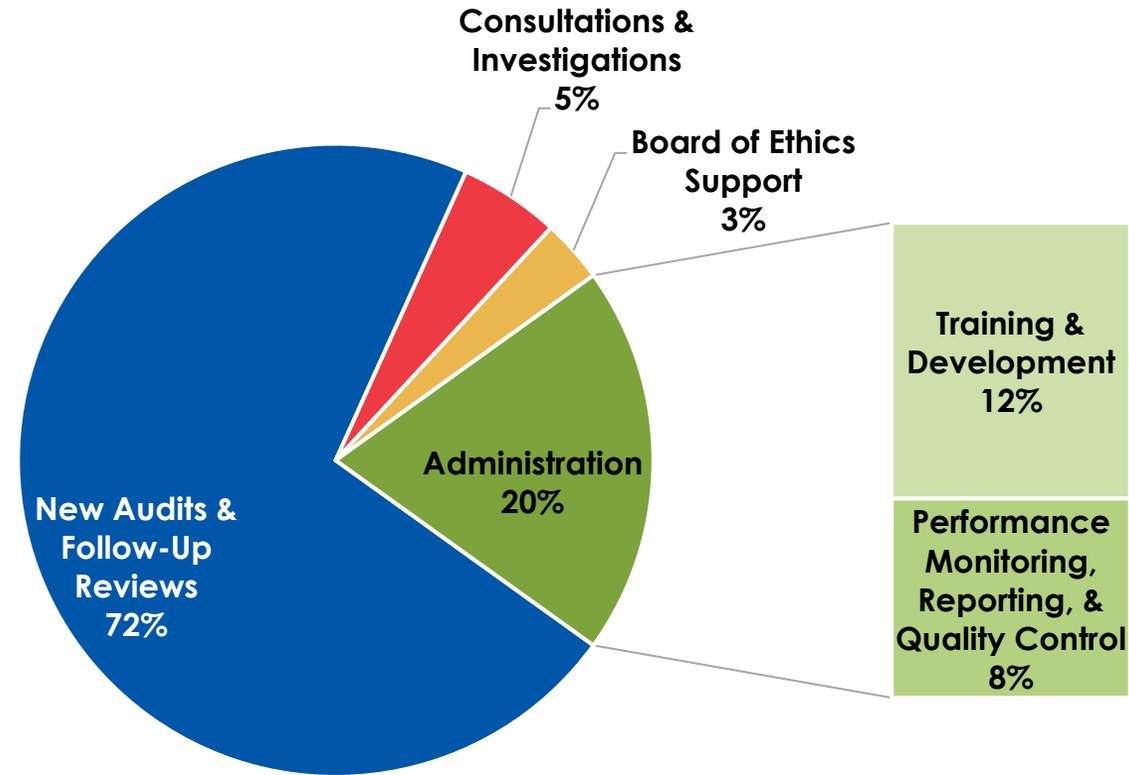
City Auditor's Lines of Service (FY24-25)

Vision: Strengthen public trust and promote continuous improvement throughout City operations.

Mission: Serve Denton residents by providing independent and objective reviews of City functions.

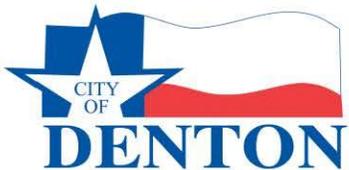


FY25-26 City Auditor's Office Time Budget



FY25-26 City Auditor's Office Assurance Services Allocation Options

Option	Follow-Ups Reports	Recs. Reviewed	Est. Avg. Months to Initial Follow-Up	Number of New Audits
1: Business as Usual (Prioritizes Audit Coverage Goal)	6	71	33	4
2: Complete Catch-up (Prioritizes Follow-Up Timeliness Goal)	12	152	30	2
3: Combination (Compromises on both Goals)	9	118	31	3



FY25-26 New Audit Project Options by Resident Priority

Critical

- **Financial Planning:** budgeting, investment management, and debt management.

High

- ◆ **Jail Operations:** booking procedures, detention activities, and release processes.
- ◆ **Climate Resiliency:** weather-related preparedness activities, conservation incentive program management, and long-range natural and physical infrastructure planning.

Medium

- ◆ **Vehicle Management:** procurement life cycle, usage practices, and maintenance.
- ◆ **Tourism Initiatives:** Hotel occupancy tax usage and marketing activities.
- ◆ **Airport Operations:** revenue collection and fixed business operations contract compliance.
- ◆ **Library Operations:** facility planning and usage, collection management, and program offerings.

Low

- ◆ **Volunteer Management:** recruitment, retention, and risk management.

Minimal

- None.

FY25-26 City Council Directed Consultation Projects



Council Travel Expense Compliance Review;
25 Hours.



ID 25-1536

*200 hours are available for performing non-audit services annually; these are typically completely flexible.

Peer City Groups Update

	Population (2024)	Pop. Growth (2020-2024)	Median Income	Persons in Poverty	Sq. Miles	Bus. Activity Complexity
City of Denton, TX	166,000	18.7%	\$73,100	15%	96	High
TX Pop. Peers						
City of Killeen, TX	163,100	4.5%	\$60,100	17%	55	Medium
City of McAllen, TX	147,500	4.5%	\$60,200	20%	62	Medium
City of Waco, TX	146,200	4.3%	\$52,800	15%	89	High
Non-TX Pop. Peers						
City of Clarksville, TN	180,700	10.0%	\$67,200	13%	99	High
City of Murfreesboro, TN	165,400	9.5%	\$78,100	10%	62	High
City of Surprise, AZ	160,300	16.0%	\$89,600	8%	108	Medium
City of Roseville, CA	154,300	10.0%	\$107,900	6%	44	High
City of Palm Bay, FL	140,200	18.2%	\$67,900	12%	86	Low
Utility Peers						
City of Austin, TX	1,054,100	2.9%	\$91,500	12%	320	High
City of Lubbock, TX	269,800	5.4%	\$54,500	19%	135	High
City of Bryan, TX	92,300	8.5%	\$53,000	23%	54	High
Geographic Peers						
City of McKinney, TX	250,400	16.5%	\$116,700	6%	68	Low
City of Garland, TX*	250,100	1.7%	\$71,700	13%	57	High
City of Grand Prairie, TX	207,300	5.7%	\$72,100	14%	72	Medium
City of Mesquite, TX	150,100	-0.1%	\$67,300	14%	50	Medium



Questions?

City Auditor's Office

Madison Rorschach, City Auditor





City of Denton

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

Legislation Text

File #: ID 25-1366, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction on an update to the City's Inclement Weather Policy.

[Estimated Presentation/Discussion Time: 1 hour]



AGENDA INFORMATION SHEET

DEPARTMENT: Community Services

CM/ DCM/ ACM: Christine Taylor

DATE: September 9, 2025

SUBJECT

Receive a report, hold a discussion, and give staff direction on an update to the City's Inclement Weather Policy.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Support Healthy and Safe Communities.

BACKGROUND

The City's Use of City Facilities for Inclement Weather Policy, 500.07, created in 2019, outlines the circumstances in which certain City facilities are made available for public use when measures of extreme temperatures are reached or when other severe weather conditions occur, as well as the general guidelines for the use of City facilities as Inclement Weather Stations.

Since Council adopted the policy, the City has opened several facilities, including the Denton Community Shelter. Staff are seeking Council direction on several administrative updates, on the City's inclement weather definition, and on the list of facilities.

DISCUSSION

The administrative updates to the policy include updating the language to be consistent with community messaging, the official designation of the Denton Community Shelter and its operator (Our Daily Bread) as the City's Inclement Weather Facility, and updates to the list of facilities who meet the criteria of the policy (air-conditioned with public access to restrooms, water fountains, and sitting areas).

Staff are seeking Council direction on staff recommendations for updates to the criteria for an inclement weather designation, including when the Denton Community Shelter should be expected to expand overnight capacity. There are many different methodologies and thresholds for making the determination of inclement weather.

For hot weather, there is the existing policy of ambient temperature (straight temperature), the current practice at the Denton Community Shelter of Heat Index, and a newer methodology from the National Weather Service (NWS) in collaboration with the Centers for Disease Control (CDC) called [HeatRisk](#).

For cold weather, there is the existing policy of ambient temperature (straight temperature), the current practice at the Denton Community Shelter of Wind Chill, and a combination of Wind Chill with precipitation.

Staff will include Council's direction into ongoing contract negotiations with its contractor to determine the operational impacts and requirements of any policy changes and will bring a red-lined copy of the policy back at a later date for adoption.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Presentation

Exhibit 3 – Use of City Facilities for Inclement Weather

Respectfully submitted:

Jesse Kent

Director of Community Services



Inclement Weather Policy

ID 25-1366

Jesse Kent

Director of Community Services

September, 9 2025

COMMUNITY SERVICES

Background

- Policy 500.07 was created in 2019.
- Inclement weather days are defined in the policy:
 - Temperature low is expected to fall below 32 degrees,
 - Temperature high is expected to exceed 100 degrees,
 - The City has declared an emergency for weather conditions such as snow/ice, hail, severe flooding, etc.
- Most City facilities with public access to restrooms, water fountains, and a sitting area were designated as warming/cooling stations
- Opening conditions were consistent with Monsignor King Outreach Center (MKOC) and Salvation Army shelters at the time of policy approval (the Denton Community Shelter opened in 2022).

Background

- Since opening, the Denton Community Shelter has been the City's designated overnight inclement weather shelter in practice, but not in policy.
- Our Daily Bread has elected to expand overnight capacity to allow all who are seeking shelter when the following are true:
 - The Heat Index is forecasted to be at or higher than 100°F outside of Day Shelter hours (10 a.m. – 7 p.m.); or
 - The Wind Chill is forecasted to be at or lower than 32°F outside of Day Shelter hours.
- There is currently no contractual requirement to open the shelter overnight for inclement weather (to be added into the agreement).

Agenda

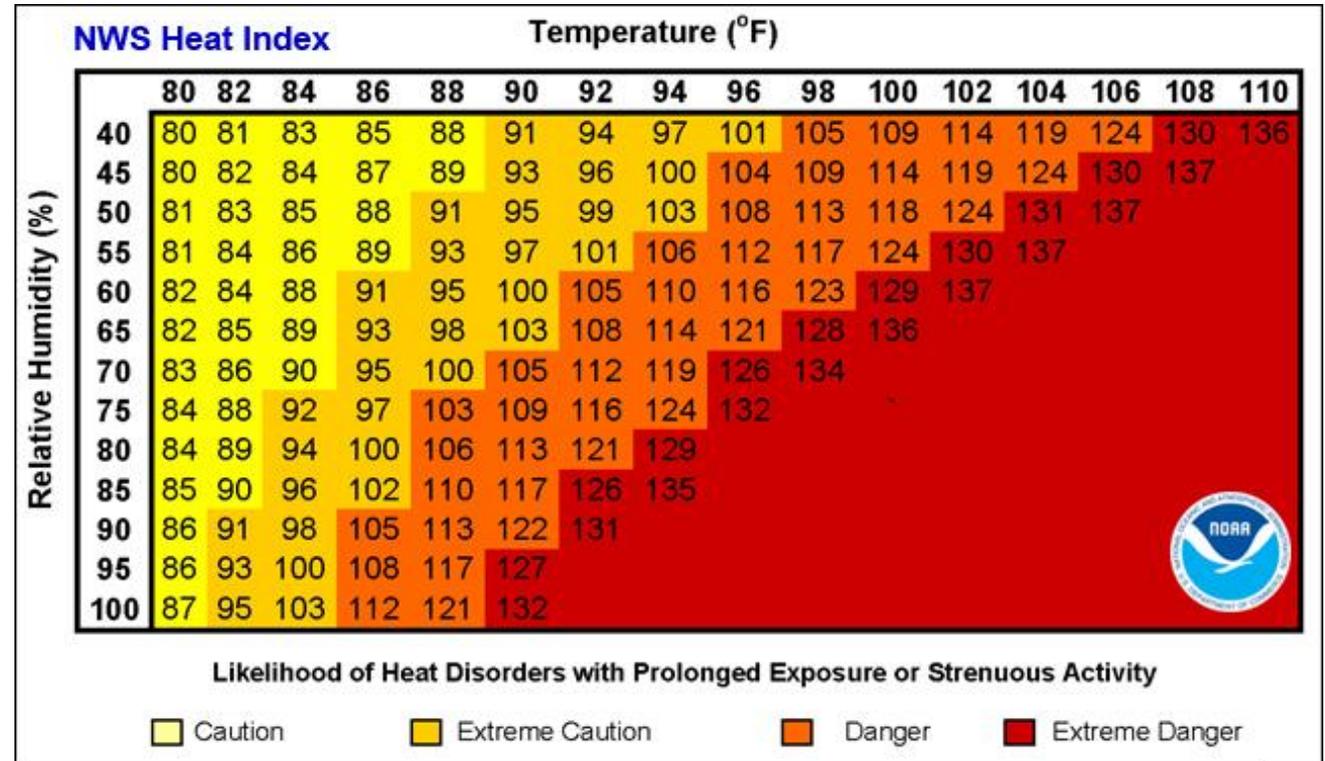
- Seeking Council direction:
 - Inclement Weather designation
- Proposed administrative updates:
 - Updating Inclement Weather Stations (Cooling/Warming Stations)
 - Designation of the Denton Community Shelter as the City's overnight inclement weather shelter

Designate emergency overnight shelter

- Update the policy to indicate the Denton Community Shelter as the overnight emergency shelter from inclement weather.
 - Contract would be negotiated to include requirements and specify the use of funding for the purpose of emergency overnight shelter for all individuals.

Heat Index

- The Heat Index is a measure of how hot it feels when relative humidity is factored in with the actual air temperature.
- National Weather Service (NWS) issues a Heat Advisory when Heat Index is expected to reach 105°F or higher, or the air temperature is forecasted to exceed 103°F for at least two consecutive days.



Heat Risk

Uses health-based temperature thresholds that were provided by CDC with local temperature parameters to devise a numeric and color-coded alert system for the risk of Heat Related Illness (HRI).

National Weather Service
National Oceanic and Atmospheric Administration

[Bookmark](#) [Data Access](#) [Graphics](#) [En español](#)

NWS HeatRisk

Highlighting Impactful Heat in the Seven Day Forecast

Map Overview What's in HeatRisk? Understanding HeatRisk CDC-NWS Collaboration Verification Additional Resources

215 E McKinney St, Denton, TX, 76201, USA

NWS HeatRisk is supplementary to official NWS heat watches, warnings, and advisories. It provides guidance for decision makers and those who are sensitive to heat. For more information, view the tabs above the map.

Category	Risk of Heat-Related Impacts
Green 0	Little to no risk from expected heat.
Yellow 1	Minor - Primarily affects those who are extremely sensitive to heat and without cooling/hydration.
Orange 2	Moderate - Affects those who are sensitive to heat, especially those without cooling/hydration, and some health systems and industries.
Red 3	Major - Affects anyone without cooling/hydration as well as health systems and industries.
Magenta 4	Extreme - Rare and/or long-duration extreme heat with no overnight relief affecting anyone without cooling/hydration as well as health systems, industries, and infrastructure.

[Comments? Questions? Please Contact Us.](#)

Valid: **Wed Aug 27**
Updated: Aug 27, 2025 1:50 PM CDT

Location: Denton TX
Lat: 33.230, Lon: -97.130
Elev: 646 ft.

Potential Heat Risks:
Wed Thu Fri Sat Sun Mon Tue

NWS Forecast:

 10% 20% 40% 40% 20%
 Low 77°F Low 74°F Low 71°F Low 69°F Low 69°F
 High 91°F High 87°F High 85°F High 84°F High 85°F High 89°F High 90°F

100%

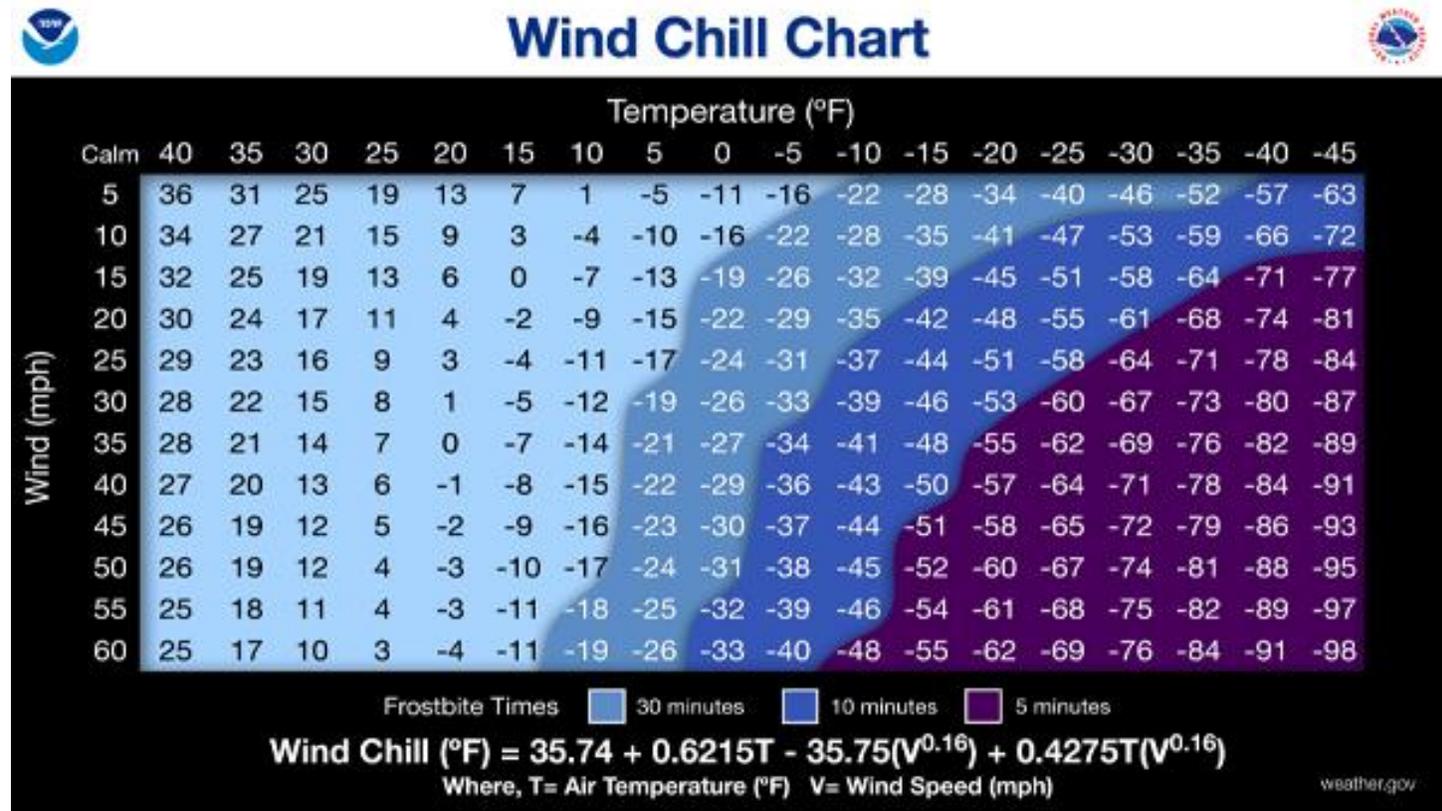
HeatRisk	0-Little to None	1-Minor	2-Moderate	3-Major	4-Extreme
Population Impacted		173.6M	29.9M	163K	< 1K

Inclement weather designation: Heat

Overnight shelter trigger	Number of days 2024	Difference from Policy	Difference from Practice
Current policy (100°F Ambient temperature)	26	-	-12
Current practice (100°F Heat index after 7p.m.)	38	12	-
Heat Index (100°F Heat index high at any time)	57	31	19
Heat Risk (Value > 2)	62	36	24

Wind Chill

- Wind chill is based on the rate of heat loss from exposed skin caused by wind and cold.
- NWS begins issuing Cold Weather Advisories once the Wind Chill reaches 10°F and below



Inclement weather designation: Cold

Overnight shelter trigger	Number of days 2024	Difference from Policy	Difference from Practice
Current policy ($\leq 32^{\circ}\text{F}$ Ambient temperature)	35	-	-12
Current practice ($\leq 32^{\circ}\text{F}$ Wind Chill)	47	12	-
Inclusion of Precipitation ($\leq 40^{\circ}\text{F}$ Wind Chill and two inches or more of precipitation in a 24-hour period)	47	12	-

Updating Inclement Weather Stations

- Updating language in the Policy to match public communications.
- Updating to include newly constructed and previously omitted buildings that meet the criteria of public access to restrooms, water fountains, and a sitting area were designated as warming/cooling stations:
 - Fire Station 3
 - Fire Station 8
 - Development Services Center
 - City Hall

Staff recommendation and Council direction

- Staff recommends making all administrative changes to align policy with current practices
- Seeking Council direction to maintain or change Inclement Weather Designations:
 - From ambient temperature high to a staff recommended Heat Risk escalation system or straight heat index.
 - From ambient temperature low to overnight Wind Chill, or overnight Wind Chill including precipitation.

CITY OF DENTON

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE

SECTION: GENERAL POLICIES/PROCEDURES/DIRECTIVES	REFERENCE NUMBER: 500.07
SUBJECT: USE OF CITY FACILITIES FOR INCLEMENT WEATHER	INITIAL EFFECTIVE DATE:
TITLE: USE OF CITY FACILITIES FOR INCLEMENT WEATHER	LAST REVISION DATE:

POLICY STATEMENT

Certain City of Denton (City) facilities are made available for public use when measures of extreme temperatures are reached or when other severe weather conditions take place. The purpose of this policy is to outline the circumstances under which certain City facilities will be made available and general guidelines. Furthermore, it is the intent of this policy to outline restrictions and priorities at each of the facilities listed herein based on the individual facility's purpose.

DEFINITIONS

Inclement Weather – Inclement Weather can generally be defined as abnormal weather conditions with extreme temperatures or extreme weather conditions. For the purposes of this policy, Inclement Weather will be defined as any day when one or more of the following conditions is met:

- 1) the temperature low is expected to fall below 32 degrees,
- 2) when the temperature high is expected to exceed 100 degrees, or
- 3) the City has declared an emergency for weather conditions such as snow/ice, hail, severe flooding, etc.

Inclement Weather Stations - Various City facilities are designated as inclement weather stations and are heated and/or air-conditioned with public access to restrooms, water fountains, and sitting area. The City facilities designated for inclement weather stations are guided by the conditions set forth in the sections of this policy and include:

- American Legion Hall (629 Lakey St.)
- Denton Civic Center (321 E. McKinney St.)
- Denton Senior Center (509 N. Bell Ave.)
- Denia Recreation Center (1001 Parvin St.)
- MLK Jr. Recreation Center (1300 Wilson St.)
- North Lakes Recreation Center (2001 W. Windsor Dr.)
- Emily Fowler Central Library (502 Oakland St.)
- North Branch Library (3020 N. Locust St.)
- South Branch Library (3228 Teasley Ln.)
- Central Fire Station (332 E. Hickory St.)
- Fire Station #2 (110 Mockingbird Ln.)
- Fire Station #4 (2110 E. Sherman Dr.)

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

<i>TITLE:</i> <i>USE OF CITY FACILITIES AND MEETING ROOMS</i>	<i>REFERENCE NUMBER:</i> <i>500.07</i>
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- Fire Station #5 (2230 W. Windsor Dr.)
- Fire Station #6 (3232 Teasley Ln.)
- Fire Station #7 (4201 Vintage Pkwy.)

Non-profit – An organization with a 501(c)(3) tax status specifically formed for purposes other than operating a profit-seeking business.

GUIDELINES**1. General Guidelines for Inclement Weather Stations:****1.1. Designation of Inclement Weather**

1. When weather conditions fall within the Inclement Weather definition, designated City facilities can be opened as warming/cooling stations. The designated City facilities are heated and/or air-conditioned with public access to restrooms, water fountains, and sitting areas during normal operations.

1.2. Public Outreach and Notification

1. When the conditions for Inclement Weather are met, City staff will communicate to residents, public, and social service agencies that the designated facilities are available as Inclement Weather Stations through its various communications channels such as website, social media, or media alerts.
2. City staff will create posters and flyers to help inform the community of services available during inclement weather.
3. City staff will help to communicate other non-City facilities and services available for those in need during inclement weather, such as emergency overnight shelter available from non-profit agencies, transportation, or other non-City facilities that are open for public use during inclement weather.
4. City staff will help to communicate ways in which interested community members can volunteer or donate to non-profits that provide facilities and services during inclement weather.

1.3. General Rules of Conduct

1. All persons utilizing City facilities during inclement weather must follow specific facility/program posted policies and procedures.
2. In addition to specific facility/program posted policies and procedures, any person in a City facility should adhere to the following rules or the person may be asked to leave the premises:
 - a. Commits or attempts to commit any activity that would constitute a violation of any federal, state, or local criminal statute or ordinance.
 - b. Is under the influence of any controlled substance or intoxicating liquor.
 - c. Possesses, sells, distributes or consumes any alcoholic beverage, except as allowed at an approved event where the person is legally authorized to sell, distribute, or consume alcoholic beverages.

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

<i>TITLE:</i>	<i>USE OF CITY FACILITIES AND MEETING ROOMS</i>	<i>REFERENCE NUMBER:</i>
		<i>500.07</i>

- d. Engages in conduct that disrupts or interferes with the normal operation of the facility/program or that disturbs City staff or individuals. Such conduct includes, but is not limited to, disregard of staff directives, abusive or threatening language or gestures, unreasonably loud or boisterous physical behavior or noise.
- e. Intentionally destroys, damages, or defaces any City or other individual's property.
- f. Brings in articles that create a hazard for other individuals by their size, condition or substance.
- g. Interferes with the free passage of City staff or other individuals into or out of any part of the facility.
- h. Brings animals inside of the facility other than those assisting persons with disabilities.
- i. Fails to wear shoes or shirts at all times inside of the facility.

2. Parks Facilities

- 2.1. Overview:** Park and Recreational buildings and facilities are designated locations for emergency sheltering and inclement weather stations. The activation and use of park buildings and facilities for this purpose will follow the implemented policies and guidelines established for each.
- 2.2. Priorities and Conflicts:** Park staff is responsible for providing a safe, clean, and comfortable environment for all park users. To that end, staff will evaluate activities and programs in progress for conflicts with the activation of an emergency shelter and inclement weather use.
 1. Conflicts can include, but are not limited to, incompatible use with special events or separation between minors in recreational care with adult users. It may be necessary to designate a staging area for emergency shelter and inclement weather users that does not interfere with or pose a safety issue to ongoing programs or activities. Temporary relocation of shelter and inclement weather activities will also be considered until conflicts are resolved and a safe environment can be established for all users.
 2. Additionally, staff will review any scheduled programs, events, or activities that may conflict with the activation of a shelter or inclement weather use. Program and event organizers and/or renters will be notified as soon as possible of any potential conflicts in use. Similar actions will be evaluated such as establishing designated areas or temporary relocation to resolve any potential issues.
- 2.3. Rules of Conduct:** All park users are subject to the Rules of Conduct for park buildings, facilities, and open spaces.
- 2.4. Inclement Weather Station Locations and Hours:** The following Parks Facilities are designated as warming and cooling stations and will be made available to the public during regular operating hours during Inclement Weather:
 - Denton Civic Center (321 E. McKinney St.)
 - Denia Recreation Center (1001 Parvin St.)
 - MLK Jr. Recreation Center (1300 Wilson St.)

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

<i>TITLE:</i> <i>USE OF CITY FACILITIES AND MEETING ROOMS</i>	<i>REFERENCE NUMBER:</i> <i>500.07</i>
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- North Lakes Recreation Center (2001 W. Windsor Dr.)

The following Parks Facilities are designated as warming and cooling stations and will be made available to individuals age 50 and above in accordance with the facility's use and membership requirement.

- American Legion Hall (629 Lakey St.)
- Denton Senior Center (509 N. Bell)

2.5. Emergency Shelter and Mass Care Under the City's Emergency Management Plan:

Emergencies are unforeseen circumstances that call for immediate action to save lives and to protect property and public health and safety. Emergency shelters will be set-up and operated in accordance with Annex C Shelter and Mass Care of the City's Emergency Management Plan.

2.6. Other Requests: Inclement weather may also result in a need for the use of indoor facilities after operational hours. The use of Parks and Recreation Department (PARD) facilities for overnight sheltering is only permitted under conditions set by Annex C Shelter and Mass Care of the City's Emergency Management Plan. Other requests for use of PARD facilities related to inclement weather are subject to the following:

1. Per this policy, all after-hour use of PARD facilities are subject to rental fees and requirements.
2. Requester must a local certified non-profit organization offering or delivering a service that is a recognized need or adopted program by the City.
3. A minimum of 48-hour notice is required to request the use of a PARD facility after hours due to inclement weather. In most cases, weather forecasting will provide advanced warning of impending weather conditions. Unforeseen weather conditions will be reviewed on a case-by-case basis.
4. In cases of unforeseen weather conditions, the City Manager or his/her designee can authorize the use of a PARD facility.
5. Availability for inclement weather-related use will be considered under the following conditions:
 - a. Temperatures, actual or wind chill, fall below 32 degrees.
 - b. Daytime heat index expected to meet or exceed 105 degrees or daytime air temperature exceeds 103 degrees (National Weather Service Heat Advisory)
 - c. Storm conditions that include hail
 - d. Any amount of freezing rain, or when 2 to 4 inches of snow (alone or in combination with sleet and freezing rain) is present (National Weather Service Winter Weather Advisory)
6. A review of programs, activities, and special events will be performed by PARD staff to identify and evaluate potential conflicts of the requested use with on-going and/or scheduled events. Staff will provide direction and recommendations with the primary goal of ensuring a safe environment for all users.
7. City Policy 500.06 Use of City Facilities and Meeting Rooms Section 6.2 Priority will be used as a guide in recommending and providing accommodations.
 - a. Parks Department programs and staff;

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

<i>TITLE:</i> <i>USE OF CITY FACILITIES AND MEETING ROOMS</i>	<i>REFERENCE NUMBER:</i> <i>500.07</i>
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- b. Community building rentals;
 - c. City sponsored or co-sponsored activities;
 - d. City Boards and Commission meetings;
 - e. Meetings of City staff;
 - f. Uses requested by agencies or officials of local, county, state, or federal governments;
 - g. Not-for-profit and civic organizations; and
 - h. Other users with valid reservations.
8. Security and minimum staffing will be required. The level of security and staffing will be determined by the nature of the event and/or activity.
 9. All proposed activities are subject to applicable policies and legal requirements such as but not limited to insurance and permits.
 10. Request for fee reimbursement related to the use of PARD facilities under this policy will be reviewed and approved by City Council. Approval will be based on an approved budget and administrative guidelines. PARD staff will initiate the refund process within 7 business days of approval.
 11. City Council will receive notification of all uses under this policy. Staff will provide Council with a quarterly report on the requests and budget status related to usage under this policy.

3. Library Facilities

- 3.1. Overview:** Denton Public Library facilities are designated locations for inclement weather stations.
- 3.2. Priorities and Conflicts:** Library staff is responsible for providing a safe, clean, and comfortable environment for all library users. To that end, staff will evaluate activities and programs in progress for conflicts with the activation of inclement weather use.
 1. Conflicts can include, but are not limited to, incompatible use with special events or separation between minors in library programs with adult users. It may be necessary to designate a staging area for inclement weather users that does not interfere with or pose a safety issue to ongoing programs or activities. Temporary relocation of inclement weather activities will also be considered until conflicts are resolved and a safe environment can be established for all users.
 2. Additionally, staff will review any scheduled programs, events, or activities that may conflict with the activation of inclement weather use. Program and event organizers will be notified as soon as possible of any potential conflicts in use. Similar actions will be evaluated such as establishing designated areas or temporary relocation to resolve any potential issues.
- 3.3. Rules of Conduct:** All library users are subject to the Rules of Conduct for library facilities.
- 3.4. Inclement Weather Station Locations and Hours:** The following Library facilities are designated inclement weather stations and will be made available to the public during normal operating hours.
 - Emily Fowler Central Library (502 Oakland St.), normal operating hours

POLICY/ADMINISTRATIVE PROCEDURE/ADMINISTRATIVE DIRECTIVE (Continued)

<i>TITLE:</i> <i>USE OF CITY FACILITIES AND MEETING ROOMS</i>	<i>REFERENCE NUMBER:</i> <i>500.07</i>
---	---

- North Branch Library (3020 N. Locust St.), normal operating hours
- South Branch Library (3228 Teasley Ln.), normal operating hours

4. Fire Stations

- 4.1. Overview:** The public access areas of Fire Station facilities are designated locations for inclement weather stations.
- 4.2. Priorities and Conflicts:** The Fire Department is responsible for providing a safe, clean environment for Fire personnel at each station. In the event that the activation of a Fire Department facility for inclement weather use conflicts with the normal operation of the Fire Department, it may be necessary to relocate the inclement weather activities until conflicts are resolved and a safe environment can be established for all. For example, some Fire stations have limited public access space available and if necessary, individuals may need to be relocated if the space is full, if there are conflicts, or violations of rules of conduct.
- 4.3. Rules of Conduct:** All visitors are subject to the Rules of Conduct for Fire Station visitors.
- 4.4. Inclement Weather Station Locations and Hours:** The following Fire Station facilities are designated inclement weather stations and will be made available to the public in the designated days and times set forth below in only the public access area of each facility.
- Central Fire Station (332 E. Hickory St.), Monday-Friday, 8 a.m. to 5 p.m.
 - Fire Station #2 (110 Mockingbird Ln.), Monday-Sunday, 8 a.m. to 9 p.m.
 - Fire Station #4 (2110 E. Sherman Dr.), Monday-Sunday, 8 a.m. to 9 p.m.
 - Fire Station #5 (2230 W. Windsor Dr.), Monday-Sunday, 8 a.m. to 9 p.m.
 - Fire Station #6 (3232 Teasley Ln.), Monday-Sunday, 8 a.m. to 9 p.m.
 - Fire Station #7 (4201 Vintage Pkwy.), Monday-Sunday, 8 a.m. to 9 p.m.



City of Denton

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

Legislation Text

File #: ID 25-1566, **Version:** 1

AGENDA CAPTION

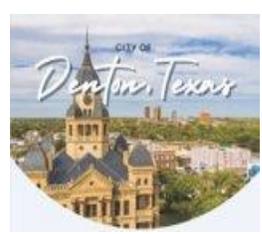
Receive a report, hold a discussion, and give staff direction regarding the City Manager's Proposed FY 2025-26 Budget.

[Estimated Presentation/Discussion Time: 1 hour]



Budget Work Session FY 2025-26

September 9, 2025

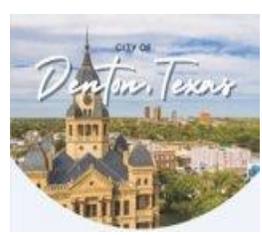


Fiscal Year 2025-26

Background

FY 2025-26 Budget Work Sessions

- May 20, 2025, Current Fiscal Year (FY) and Preliminary FY 2025-26 Impacts
- June 17, 2025, Current FY Update, Preliminary FY 2025-26 Budget Reductions
- July 15, 2025, Preliminary FY 2025-26 Utility Budgets & Rates
- July 22, 2025, Preliminary FY 2025-26 Capital Improvement Program
- August 9, 2025, Budget Workshop - City Manager's Proposed FY 2025-26 Budget (Tax Rate & All Funds)
- August 19, 2025, Budget Workshop Follow-Up, Utility Budgets, General Fund Fees
- September 9, 2025, Final Review of the General Fund & Proposed Tax Rate, any remaining budget follow-up



Fiscal Year 2025-26

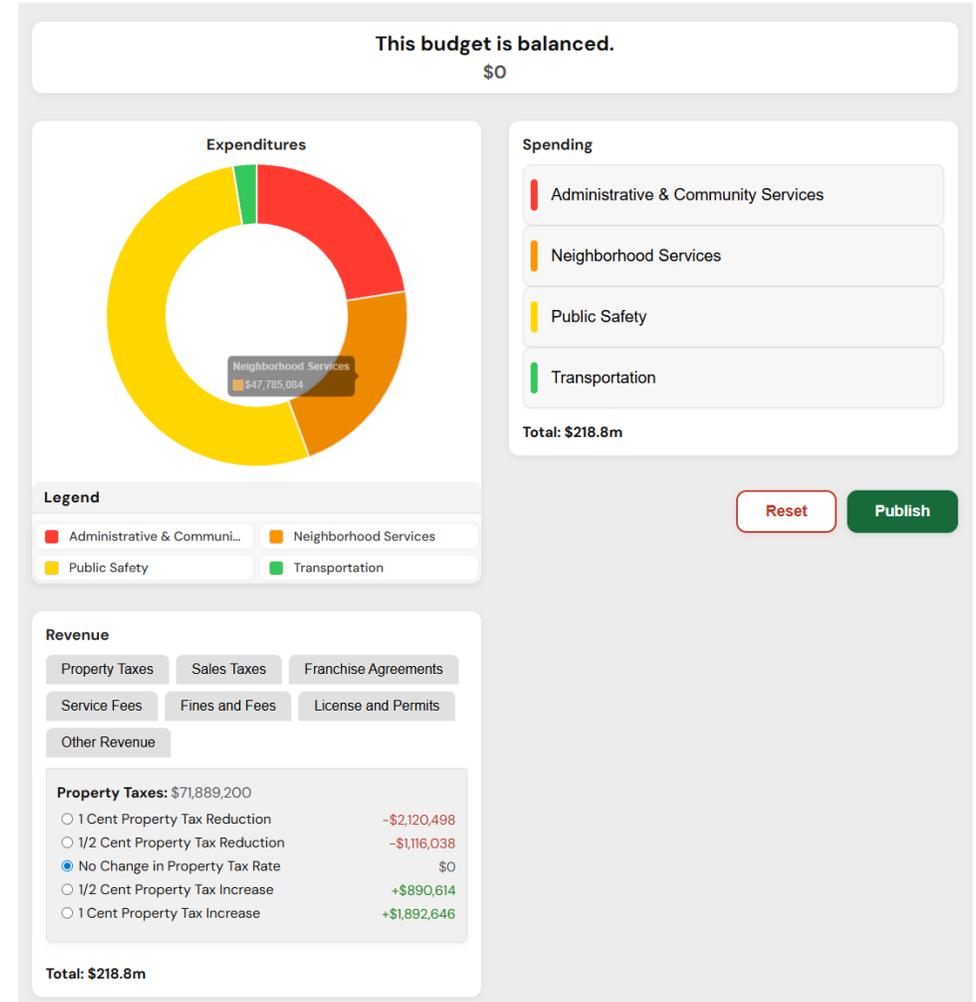
Budget Simulator Feedback

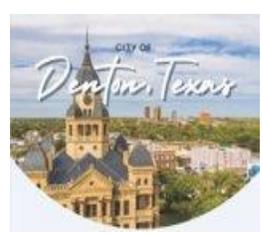
58 Submissions as of 9/2/25

- 15 responses – Increase the proposed rate
- 16 responses – Keep the proposed rate
- 27 responses – Decrease the proposed rate

Age Range:	Count:	% of Results	% of Adult Population
18-29	11	19%	35%
30-49	30	52%	30%
50-69	14	24%	25%
70+	3	5%	10%
Total	58	100%	100%

Postal Code:	Count:	% of Results	% of Population
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76207	6	11%	12%
76208	7	13%	19%
76209	9	16%	20%
76210	10	18%	16%
76226	2	4%	N/A
76227	2	4%	N/A
Total	58	100%	100%





Fiscal Year 2025-26

Budget Methodology & Strategy

Zero-Based Budgeting

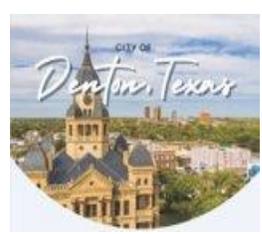
- All spending is justified from a "zero-base" regardless of past allocations.
- **Objective:** Ensure every dollar provides maximum impact.
- **Key Questions:**
 - Are we duplicating efforts or resources?
 - Are there activities we should no longer be doing?
 - Where can we improve our existing services?

Managed Vacancy Program

- **Objective:** To generate budgetary savings by strategically freezing open positions.
- **Purpose:** The program analyzes and prioritizes staffing needs, ensuring resources are allocated to the most critical roles

Budget Task Force

- **Objective:** To identify, review, and recommend cost saving measures
- **Purpose:** A cross functional dedicated team to review departmental budgets to recommend reductions and efficiencies



Fiscal Year 2025-26

Budget Methodology & Strategy

Expected Outcomes:

Improved Financial Health

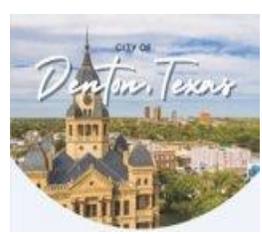
- Achieve a balanced budget and capture significant savings.
- Increase the City's financial stability and resilience for future challenges.

Enhanced Strategic Alignment

- Eliminate non-essential or duplicated services and projects.
- Reallocate funds to support high-impact programs and critical services.

Increased Transparency & Accountability

- Promote a culture of data-driven decision-making.
- Provide greater clarity and justification for all budgetary expenditures.
- Create a consistent process for reviewing and prioritizing all spending requests, from staffing to programs.



Fiscal Year 2025-26

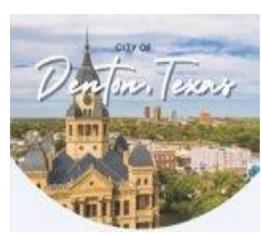
Compensation & Benefits

Compensation

Salary Adjustments: There are no proposed cost-of-living or merit adjustments for non-civil service employees. As part of Meet and Confer, civil service employees who are eligible and meet the requirements will receive STEP Pay increases. These increases will continue at designated intervals throughout the year.

Employee Benefits

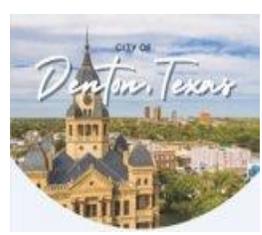
- **Health Insurance:** The employer-paid premium is increasing by 2.19% over the prior year, bringing the cost to \$1,331 per employee per month. Employee contribution changes will vary based on plan selections, effective in January 2026.
- **Retirement Contributions (rate set by TMRS annually)**
 - Texas Municipal Retirement System (TMRS): The rate is decreasing from 18.88% to 18.60%.
 - Fire Pension: The rate remains aligned with TMRS at 18.60%.
 - This change represents a city-wide savings of \$400,000
- **Work Schedules:**
 - Administrative Offices: 4.5-day (closes at noon on Friday) is proposed to be piloted tentatively for October 2025
 - Fire Department: schedule will move to 48/96 Hours. Schedule is tentative for January 2026



Fiscal Year 2025-26

General Fund - Revenues

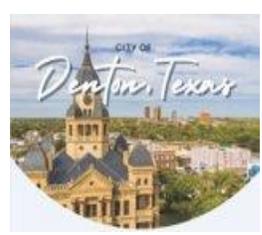
	2023-24 ACTUALS	2024-25 ESTIMATES	2025-2026 PROPOSED	FY 2026-27 PROJECTED	FY 2027-28 PROJECTED	FY 2028-29 PROJECTED	FY 2029-30 PROJECTED
Beginning Fund Balance	\$ 44,749,871	\$ 42,353,136	\$ 42,508,217	\$ 42,508,217	\$ 44,646,467	\$ 49,182,379	\$ 53,758,009
Property Tax	66,281,546	67,804,582	72,012,306	74,172,675	76,397,856	77,925,813	79,484,329
Sales Tax	57,074,842	60,164,000	62,944,986	64,833,336	66,778,336	68,113,903	69,476,181
Other Taxes	566,827	502,136	566,134	583,118	600,611	612,623	624,876
Licenses and Permits	5,561,811	6,956,839	6,846,632	7,052,031	7,263,592	7,408,864	7,557,042
Franchise Fees & ROI	17,534,987	24,679,488	32,194,374	33,160,205	34,155,011	34,838,112	35,534,874
Fines and Fees	2,525,000	2,527,452	2,528,462	2,604,316	2,682,446	2,736,095	2,790,817
Service Fees	12,420,160	13,020,436	12,866,937	13,252,945	13,650,534	13,923,544	14,202,015
Investment Income	3,567,673	2,742,602	2,618,775	2,697,338	2,778,258	2,833,824	2,890,500
Intergovernmental Revenue	3,530,952	3,169,666	3,571,740	3,678,892	3,789,259	3,865,044	3,942,345
Other Revenues	688,630	422,332	719,846	741,442	763,685	778,959	794,538
Transfers	16,903,268	20,710,051	21,954,773	22,613,416	23,291,819	23,757,655	24,232,808
Total Revenue	\$ 186,655,696	\$ 202,699,585	\$ 218,824,966	\$ 225,389,715	\$ 232,151,406	\$ 236,794,435	\$ 241,530,323



Fiscal Year 2025-26

General Fund - Expenditures

	2023-24 ACTUALS	2024-25 ESTIMATES	2025-26 PROPOSED	FY 2026-27 PROJECTED	FY 2027-28 PROJECTED	FY 2028-29 PROJECTED	FY 2029-30 PROJECTED
Personnel Services	\$ 132,516,995	\$ 142,946,395	\$ 151,582,811	\$ 154,614,467	\$ 157,706,757	\$ 160,860,892	\$ 164,078,110
Materials & Supplies	4,066,883	4,442,079	4,617,746	4,710,101	4,804,303	4,900,389	4,998,397
Maintenance & Repair	1,926,679	2,128,311	2,349,279	2,396,265	2,444,190	2,493,074	2,542,935
Insurance	3,920,723	4,521,766	3,868,485	3,945,855	4,024,772	4,105,267	4,187,373
Miscellaneous	2,820,794	3,044,578	2,503,462	2,553,531	2,604,602	2,656,694	2,709,828
Operations	23,326,252	20,340,778	25,386,802	25,894,538	26,412,429	26,940,677	27,479,491
Fixed Assets	661,455	467,371	477,588	487,140	496,883	506,820	516,957
Capital Transfers	1,062,502	1,451,450	1,063,450	1,084,719	1,106,413	1,128,542	1,151,112
Interfund Transfers	18,778,627	23,201,776	26,975,343	27,514,850	28,065,147	28,626,450	29,198,979
Total Expenditures	\$ 189,080,910	\$ 202,544,503	\$ 218,824,966	\$ 223,201,465	\$ 227,665,495	\$ 232,218,805	\$ 236,863,181
Ending Fund Balance	\$ 42,324,656	\$ 42,508,217	\$ 42,508,217	\$ 44,696,467	\$ 49,182,379	\$ 53,758,009	\$ 58,425,151
Change in Fund Balance	(2,425,215)	155,081	-	2,188,250	4,485,912	4,575,630	4,667,143
Fund Balance as % of Total Expenditures	22.38%	21.00%	19.43%	20.03%	21.60%	23.15%	24.70%

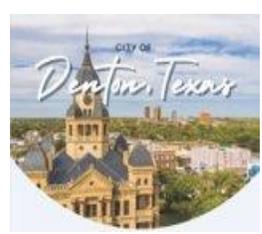


Fiscal Year 2025-26

General Fund – Proposed Reductions

To navigate current budget conditions, departments conducted zero-based budgeting for FY 2025-26. In addition, departments have assessed existing operations to identify opportunities for cost savings through service reductions, eliminations, technology implementation, or internalization of services.

Category	Included Reductions
Personnel	\$3,066,035
Programs	2,179,064
Contractual Services	1,053,223
Travel and Training	197,155
Equipment, Supplies, Other Discretionary	618,317
Total	\$7,113,794



Fiscal Year 2025-26

Assessed Values & Tax Rate

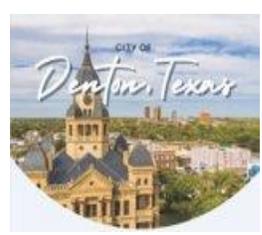
Fiscal Year	Certified Assessed Value*	Operations & Maintenance Rate	Debt Service Rate	Total Tax Rate	% Change
2020-21	\$ 13,581,648,271	0.380364	0.210090	0.590454	0.00%
2021-22	14,403,105,063	0.350444	0.215379	0.565823	-4.17%
2022-23	16,764,866,572	0.356432	0.204250	0.560682	-0.91%
2023-24	19,287,823,297	0.354780	0.205902	0.560682	0.00%
2024-25	21,246,581,740	0.334780	0.250640	0.585420	4.48%
2025-26	\$ 22,755,601,832	0.334780	0.260640	0.595420	1.71%

Proposed Rate

* Excludes TIRZ, includes frozen values

Proposed Tax Rate:

Operations & Maintenance	\$0.334780 (unchanged)
Debt Service	\$0.260640 (increase \$0.01)
Total Proposed Tax Rate	\$0.595420
No New Revenue Rate	\$0.554279/ \$100
Voter Approval Rate	\$0.610157/ \$100



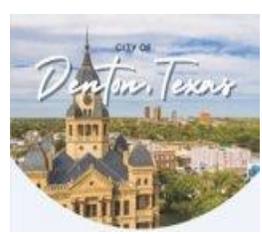
Fiscal Year 2025-26 Tax Bill Impact

Proposed: Average Tax Bill Impact: Approximately \$7 per month / \$84 annually

- Increase on the I&S (debt) Only
- Rate is per \$100 in assessed value

No New Revenue Rate	\$0.554279/\$100
Proposed Rate	\$0.595420/\$100
Voter Approval Rate	\$0.610157/\$100

Estimated Property Tax Bill	FY 2025	Proposed .01 Increase Increase to I&S only
Average Homestead Residential Value	\$ 378,849	\$ 386,698
O&M Rate	0.33478	0.33478
I&S Rate	0.25064	0.26064
Total Rate	0.58542	0.59542
Tax Bill	\$ 2,218	\$ 2,302
Annual Change (\$)		\$84
Monthly Change (\$)		\$7



Fiscal Year 2025-26

Direction/Discussion

- Seeking Feedback on the City Manager's Proposed Budget

Next Steps

- Sept 8 Public Hearing on the Budget and Tax Rate
- Sept 16 Budget Adoption

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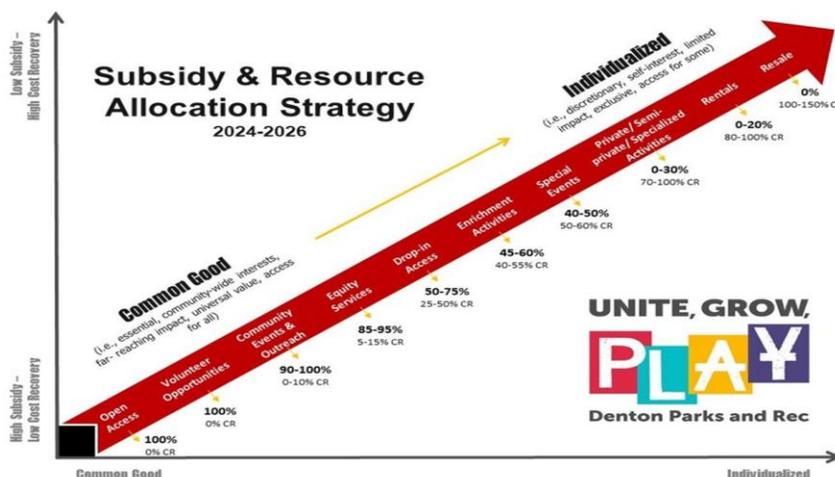
MEMORANDUM

DATE: September 3, 2025
TO: Honorable Mayor and Council Members
FROM: Christine Taylor, Assistant City Manager
SUBJECT: Budget Work Session Follow-Up Questions and Budget Simulator Responses

1. What is the sales tax generated from the proposed Ambassador boundary?
 As a follow-up to the Budget Workshop on August 9, 2025, staff have compiled the monthly sales tax revenue year-to-date (September 2024 through July 2025) for the current and proposed ambassador areas.

Monthly sales tax revenues for the original ambassador area were approximately \$843,080. The proposed new ambassador program area, which encompasses the downtown square proper, generated approximately \$384,568 in sales tax revenue during the same period. Due to the confidentiality requirements of the Texas Tax Code, sections 111. 006, 151. 027, and 321. In 2022, the data can only be shared in aggregate without identifying business information.

2. How does the Parks and Recreation Department determine its annual fees?
 The Parks and Recreation Department uses a Subsidy and Resource Allocation Strategy. With this strategy, the cost recovery percentage increases as the individual benefit of a program or service increases.



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3. Budget Simulator Feedback

Following the Budget Workshop, the City invited residents to explore the Fiscal Year 2026 Budget and share their perspectives through the interactive online tool. The interactive platform provides an engaging way for residents to see how tax dollars are allocated across essential services by allowing users to simulate different General Fund budget scenarios.

As of September 2, 2025, 58 responses were received.

Response Demographics:

Age Range:	Count:	% of Results	% of Adult Population*
18-29	11	19%	35%
30-49	30	52%	30%
50-69	14	24%	25%
70+	3	5%	10%
Total	58	100%	100%

Postal Code:	Count:	% of Results	% of Population**
76201	18	31%	20%
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76210	10	18%	16%
76226	2	4%	N/A
76227	2	4%	N/A
Total	58	100%	100%

*ACS 2023 1-Year Estimate

**2020 Census Data

Simulator Spending Results:

- 15 responses – Increase the proposed rate
- 16 responses – Keep the proposed rate
- 27 responses – Decrease the proposed rate

General Fund Department	Decrease/Increase (# of Responses)	Majority Response Feedback
Community Improvement	4/11	Fund at 103%, \$1,257,922
Transportation	3/10	Fund at 103%, \$2,544,109
Library	4/11	Fund at 103%, \$7,176,340
Traffic	2/6	Fund at 102%, \$3,110,424
Community Development	4/11	Fund at 102%, \$1,257,922
Parks and Recreation	4/9	Fund at 101%, \$27,088,614
Building Inspections	3 /4	Fund at 99%, \$4,382,343

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Planning	5/4	Fund at 99%, \$4,702,872
Internal Audit	3/0	Fund at 98%, \$728,736
Fire	3/0	Fund at 98%, \$48,954,142
Animal Services	4/1	Fund at 98%, \$4,533,872
Legal	5/0	Fund at 97%, \$3,817,676
Economic Development	9/3	Fund at 97%, \$5,961,586
Municipal Judge	6/0	Fund at 97%, \$676,640
PS Communications	8/0	Fund at 97%, \$6,052,772
Finance	6/0	Fund at 96%, \$8,182,848
Human Resources	7/0	Fund at 95%, \$4,847,275
City Council	9/0	Fund at 95%, \$241,591
City Manager's Office	14/0	Fund at 94%, \$3,706,579
Police	13/0	Fund at 94%, \$51,801,133

Simulator Responses:

Age Range	Zip Code	Comment
50-69	76201	Better government looks to act like a business and streamline, find efficiencies while reducing costs in order to drive profits. While government shouldn't drive profit it should look to operate efficiently and lean. Be excellent stewards of taxpayers money.
50-69	76201	People are struggling to pay for necessities. The county has increased the values of our homes due to the increased homestead exemption. The school district is asking for so much it has to go to vote. Now this. You are all taxing us out of our homes. Find somewhere else to cut.
30-49	76210	How about cutting cost in office. Do we really need that many in admin. I don't see or hear any of them complaining about the cost of living, but yet they think it's easy to raise the rates for people. Look at cuts internally vs putting it back on the community. There is a ton of wasted money.
30-49	76208	Decrease administrative costs. Instead of having the public take on percentage increase, find where there can be cost savings on the administrative side. If we have to do that in our house for the price increases you should have to do so internally as well.
30-49	76205	Cut the waste in the CMO office
50-69	76201	Please contact me if you need assistance with addressing the budget shortfall
30-49	76209	I'm happy to pay slightly more in taxes if the money is prioritized for providing services to residents. I believe we can find efficiencies in the police department, particularly when it comes to overtime; that's where my most substantial cut would be. I did not see a spending category for road maintenance and construction, but I believe more money should be allocated there to make sure road projects aren't just taken on, but also completed quickly and on time. In addition, I allocated more funds to planning, building inspections, etc. because I believe staff in planning should have

3

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		more capacity to study and implement changes to our city code to allow for the by-right development of missing middle housing, decreased minimum lot sizes, abandonment of parking minimums, and other measures that would make development of housing that is affordable to middle and lower income individuals more attractive. Finally, I am hoping that allocating more funds to economic development can help spur development in the Southern part of downtown by expanding TIRZ One or creating a third TIRZ to include the part of downtown south of the square to help promote high quality housing and retail development there.
30-49	76207	Please don't raise our property taxes thanks
50-69	76208	10% across the board cuts. Give me broad a** categories with no f***ing detail and this is what you get. Plus a 1 cut in property taxes. Boom surplus
50-69	76208	Public safety is paramount. We need sufficient police and firefighters. Does this budget include DME and the landfill? Does it include raises for city staff?
50-69	76208	Do not increase property taxes please. Many of us have already paid for many years and kids are grown, no longer in school. Tax the developers you allow to build so many apartments calling it affordable housing yet no pride of ownership comes from tenants. Literally driving us to find elsewhere to move as Denton is not looking out for homeowners by raising our taxes.
30-49	76201	Easy. Cut the p**s.
30-49	76209	Outsource public grounds maintenance and landscaping to an approved contractor. Outsource "streets" department.
18-29	76207	I would really like to see an effort put into the community spaces of Denton. I would love to see better roads, side walks for accessibility, and transportation. There are a lot of college students (and other adults) who cannot afford to own a car and there are not accessible ways for those people to travel around the city. I chose to take money away from the police because I believe that the budget they have is much too high and the money that goes to them could be put in helping the community of Denton become a better place.
30-49	76210	Spend less on the bureaucracy and spend more on community oriented pursuits.
50-69	76227	Quit taxing us out of the ability to make out house payments and learn to do your job and quit spending more then you have. If it cost 500 dollars to light a softball field, make the people using it pay 500 dollars
18-29	76201	I really want more routes for University students to reach more of Denton, not all students have a car or can afford to have a car here so transportation is really important. I also would love more stuff that involves helping the community.
18-29	76208	Reduce property tax and reduce spend

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30-49	76210	Money should be spent to figure out traffic problems. Traffic signals are not the only option! Put in more roundabouts on major roads!
50-69	76226	Cuts in all departments except public safety, streets, & infrastructure. Stop with the virtue signaling and support of non-critical services. The recent audit findings of our infrastructure management is a tell for just how poorly our city is being run. Fire the city manager and the street management staff. Hire professionals. I'll not vote for any city council who runs on any other issues.
30-49	76205	We need to reduce spending as much as possible and do not start any more bond debt.
50-69	76208	Including federal, I lose nearly 40% of my paycheck to taxes, more if we count layered taxation. Government spending is out of control in all levels. Big government doesn't work, big government only gets worse and more demanding.
30-49	76207	Increase affordable housing. Increase/develop intra-city public transport
30-49	76201	If you want more money, get it out of the developers instead of making more sweetheart deals and raising property taxes. Denton property taxes are already higher than most of the surrounding cities and we get nothing more from it.
30-49	76201	cops are significantly overpaid and ineffective - money should be rerouted to libraries, public transportation and public parks services.
18-29	76201	By lowering the police presence and focusing on community development, we will need less policing.
30-49	76201	More money for Community Improvement Services would improve neighborhood services, and more for Parks would allow needed park improvements - both directly benefit property tax payers.
18-29	76201	Police are overfunded, patrolling all over the city while streets are permanently under construction. It is inconvenient and an eyesore to be surround by orange cones and constant construction on campus and the surrounding area.
18-29	76209	It's wild that we're spending more on "public safety communications" than on the entirety of Transportation. More buses!
30-49	76227	55M on police is insane. Statistically there's no measurable effect by spending more on police enforcement.

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70+	76201	You need to stop letting staff influence policy, that is NOT their job. Bond money and community service needs to aggressively go after transitional and permanent supportive housing by encouraging, cooperating with and facilitating NPOs who want to build housing. Stop blocking access out of neighborhoods by working on several streets at a time. Hire highly qualified ppl.
18-29	76201	Decrease in inflated police (2/3 of the whole budget originally! They must be so bored!) budget allowing drastic increases to community improvement, legal, management, traffic, and public transportation.
30-49	76209	I obviously have no idea what goes into these numbers. So all I can do is give a general opinion. My general opinion is that if property taxes are increased, you will not see an increase in revenue because people will simply stop using and spending so much. You've already seen this effect in sales tax figures I assume. People are in budget tightening mode. Which means the city should also be in budget tightening mode. I have had to make cuts in my business, and it was hard. It's time for the city to do the same.

OUR CORE VALUES

Inclusion • Collaboration • Quality Service • Strategic Focus • Fiscal Responsibility



City of Denton

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

Legislation Text

File #: ID 25-033, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction on pending City Council requests for:

1) Uniformity of board and commission member terms

[Estimated Presentation/Discussion Time: 30 minutes]



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: September 9, 2025

SUBJECT

Receive a report, hold a discussion, and give staff direction on pending City Council requests for:

- 1) Uniformity of board and commission member terms
[Estimated Presentation/Discussion Time: 30 minutes]

BACKGROUND

The following items will be discussed during this work session:

- 1) 1.) Uniformity of board and commission member terms
 - a. **Requestor:** Council Member Jester
 - b. **Council Member Request:** I would like to pitch conforming members' terms for all of our Boards and Commissions. It does seem an inordinate amount of work and time is spent throughout the year by staff that might be reduced with as much uniformity as makes sense.
 - c. **Date Requested:** August 17, 2025
 - d. **Format for Response:** Informal Staff Report

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Ordinance No. 24-1725

Exhibit 3 – Presentation

Respectfully Submitted:
Kristi Fogle
Chief of Staff

ORDINANCE NO. 24-1725

AN ORDINANCE OF THE CITY OF DENTON AMENDING CHAPTER 2, ARTICLE II, SECTION 2-30 OF THE CODE OF THE CITY OF DENTON (CITY COUNCIL REQUESTS FOR INFORMATION OR AGENDA ITEMS), TO PROVIDE FOR A REVISED POLICY MAKING PROCESS THAT PROVIDES BETTER INFORMATION, INCREASED COMMUNITY ENGAGEMENT, ELEVATED INVOLVEMENT OF BOARDS AND COMMISSIONS, AND BUDGET ALIGNMENT; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE, PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 27, 2019 by Ordinance No. 19-2026, the City Council adopted Section 2-30 of the City of Denton Code of Ordinances to provide procedures to ensure there is a consensus of the City Council regarding the use of staff time when responding to requests from elected officials; and

WHEREAS, on September 28, 2021 by Ordinance No. 21-1837 the City Council amended the City Council request procedures to increase the time for the requesting councilmember to speak from one minute to two minutes and change the section title to more accurately reflect the response types may include agenda items; and

WHEREAS, on July 25, 2023, by Ordinance No. 23-1431, the City Council amended the City Council request procedures to require a 3/4 supermajority consensus to have a request go directly to a resolution or ordinance on a future City Council agenda; and

WHEREAS, on September 17, 2024, by Ordinance No. 24-1725 the City Council now desires to amend the City Council request procedures to provide for a revised policy making process that provides better information, increased community engagement, elevated involvement of boards and commissions, and budget alignment; 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 to the body of this Ordinance as if fully set forth herein.

SECTION 2. Chapter 2, Article II, Section 2-30 of the City of Denton Code of Ordinances, entitled “City Council Requests for Information or Agenda Items,” is hereby amended in its entirety to now read as follows:

Chapter 2 - ADMINISTRATION

ARTICLE II. – ADMINISTRATIVE ORGANIZATION

Sec. 2-30. - City Council Requests for Information or Agenda Items.

(a) Definitions.

- (1) For purposes of Section 2-30 the following definitions apply:
 - a. “Request for Information” – Requests made by a member of the City Council to seek clarification on Board, Commission, Committee or City Council agenda items; address perceived service issues, infrastructure maintenance, or construction concerns caused by or impacting City operations and/or the quality of life for Denton residents; and requests for policy-related research to evaluate policies implemented by other agencies and/or assess the impact a new policy or potential program may have if implemented by the City of Denton.
 - b. “City Staff” – Includes employees of the City of Denton consisting of, or reporting to, the City Manager or the City Attorney.

(b) City Council Requests for Information from City Staff.

- (1) All City Council requests for information from City Staff, must be submitted to the City Manager’s Office via email and include at a minimum, the following details:
 - a. Request Type;
 - b. Purpose;
 - c. Time Sensitivity; and
 - d. Preferred Response Format.
- (2) The City Manager’s Office and/or the City Attorney’s Office will estimate the amount of time required to respond to each request.
- (3) Requests estimated to take more than a total of two hours to complete will be brought forward within the next 30 calendar days, to a City Council work session to seek consensus from the full City Council regarding the use of City Staff time to fulfill the request. Requests for information referred to a work session will follow the procedures provided in sub-section (b) of Section 2-30.

(c) City Council Requests for Information Referred to a Work Session.

- (1) A standing work session item will be added to each City Council agenda for City Council requests to be considered.
 - a. The requesting Council Member will be required to provide a clear, written explanation describing the reason for the information requested. This description will be included as an attachment to the work session agenda materials and must be provided to the City Secretary in time to fully comply with Texas Open Meeting Act requirements.
- (2) During the work session, the requesting Council Member will have a maximum of two minutes to describe and justify their request.

- a. Remaining Council Members will then have a maximum of one minute each to provide feedback and indicate their support for the use of City Staff time to respond to the request.
- (3) Staff will respond to all requests where a consensus of at least four elected officials is established with an Informal Staff Report (ISR) and/or Legal Status Report (LSR), determined by the City Manager and the City Attorney, that outlines, as it was presented, the estimated cost to implement, the estimated timeline for implementation of, and a determination of the strategic alignment of, the request.
- (4) Upon receipt of the ISR and/or LSR, the Council Member who initiated the request will inform the City Manager if their request has been satisfied. If the requesting Council Member's request is satisfied by the ISR or LSR, the request is concluded with no further action. If the Council Member who initiated the request is not satisfied by the information provided in the ISR or LSR, or otherwise requests a City Council work session, ordinance, resolution or other action on the request, they may submit it to the Agenda Committee to enter the Council Committee Process as defined in Sec 2-30(c)(5). If there is a consensus of six (6) Council Members, a resolution or ordinance may be placed on a future City Council agenda without going through the Council Committee Process defined in Sec 2-30(c)(5).
- (5) The Council Committee Process is the procedural movement of a request through the steps outlined in this subsection.
 - a. The Agenda Committee will use the ISR or LSR to determine if, to the extent possible, there are any existing committees, boards, or commissions whose defined scope includes the request. If any such committee, board, or commission exists, the Agenda Committee will direct the staff liaison(s) for any appropriate committees, boards, or commissions to find the soonest feasible date and add the request to agenda for the for committees, boards, or commissions for consideration and feedback.
 - b. After review by committees, boards, or commissions, if funding is available to implement the request, as determined by the City Manager, the request will proceed to a City Council work session.
 - c. After review by committees, boards, or commissions, a request without available funding will be scheduled for discussion by the City Manager at the next City Council Budget Workshop or Strategic Retreat. The request will either be included in the City Manager's proposed budget for the next fiscal year or concluded with no further action, at the direction of City Council. A request that is funded in the budget will proceed to a City Council work session.

(d) City staff time will not be allowed to work on any request that is concluded with no further action in accordance with the procedures of Sec 2-30(c) unless the request is resubmitted in accordance with Sec 2-30(c).

SECTION 3. Ordinance No. 23-1431 is hereby repealed and replaced by this Ordinance. To the extent not otherwise provided, this Ordinance shall repeal every prior ordinance in conflict herewith, but only insofar as the portion of such ordinance shall be in conflict; and as to all other sections of the ordinance not in direct conflict herewith, this Ordinance shall be and is hereby made cumulative except as to such prior ordinances or portions thereof as are expressly repealed hereby.

SECTION 4. 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.

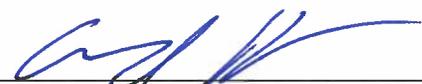
SECTION 5. The City Secretary is hereby directed to record and publish the above regulations in the City's Code of Ordinances.

SECTION 6. This Ordinance shall become effective immediately upon its passage and approval.

The motion to approve this Ordinance was made by Gerard Hudspeth and seconded by Vicki Byrd; this Ordinance was passed and approved by the following vote [5 - 2]:

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

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



 GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

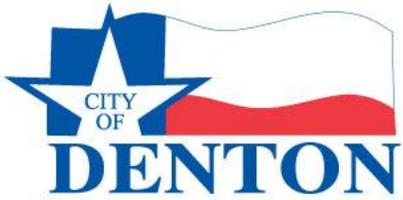
BY: *Lauren Thoden*

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Mack Reinwand

BY: _____





City Council Pending Requests for Information

City Council Meeting

September 9, 2025

File ID: 25-033

Work Session Process

- Up to seven requests will be reviewed per meeting (one per Council Member)
- Staff will introduce each request
- The requesting Council Member will have up to two minutes to describe and justify their request
- Remaining Council Members will then have a maximum of one minute each to provide feedback and indicate their support for the use of City staff time to respond to the request
- Staff will respond to all requests where a consensus of at least four elected officials is established
- A consensus of six (6) Council Members is required for a resolution or ordinance to be placed on a future City Council agenda prior to a work session on the request.



Work Session Process

- The Agenda Committee will assist in scheduling items receiving consensus based upon priority offered by Council Members, work session availability, and readiness of the item.
- As guidelines for Council Members to note and offer their priority while supporting an item, the following general categorization could be used to indicate any Council Member's support to assist staff and the Agenda Committee:
 - **High** – Time-sensitivity of the item is significant; the item is critical to the community or organization; and/or the item is of such importance that it should take precedence over other scheduled priorities, projects, or items.
 - **Moderate** – The item is somewhat time-sensitive; the item has a valuable impact to the community or organization; and/or the item is important but should be integrated into work plans accordingly.
 - **Low** – The item is not time-sensitive; the item has an impact, but it is limited; and/or the item should be scheduled into work plans where possible but should not affect or delay other scheduled work.



Two-Minute Pitch

Request for the implementation of uniformity of board and commission member terms.

Requestor: Council Member Jester

Council Member Request: "I would like to pitch conforming members' terms for all of our Boards and Commissions. It does seem an inordinate amount of work and time is spent throughout the year by staff that might be reduced with as much uniformity as makes sense."

Date Requested: August 17, 2025

Format of Response: Informal Staff Report





City of Denton

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

Legislation Text

File #: ID 25-1591, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton confirming the appointment of Ingrid Rex as the Interim City Secretary; and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM/DCM/ACM: Sara Hensley

DATE: September 9, 2025

SUBJECT

Consider approval of a resolution of the City of Denton confirming the appointment of Ingrid Rex as the Interim City Secretary; and providing an effective date.

BACKGROUND

Ingrid Rex has served as the Deputy City Secretary for the City of Denton since August 2024 and has over 14 years of municipal administrative experience, including public records and agenda management. Ingrid is a Texas Registered Municipal Clerk and a Texas Notary Public. Ingrid's skills and experience make her well-qualified to serve as the Interim City Secretary while the City completes a thorough internal and external application process for the permanent position.

RECOMMENDATION

Staff recommends the appointment of Ingrid Rex as the Interim City Secretary.

EXHIBITS

1. Agenda Information Sheet
2. Resolution

Respectfully submitted:
Kristi Fogle
Chief of Staff

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON CONFIRMING THE APPOINTMENT OF INGRID REX AS THE INTERIM CITY SECRETARY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS Lauren Thoden resigned as City Secretary effective September 12, 2025; and

WHEREAS, the City Manager's Office plans to conduct an internal and external application process to recruit a new City Secretary; and

WHEREAS, Ingrid Rex has served as Deputy City Secretary for the City of Denton since August 2024, bringing over 14 years of municipal experience; and

WHEREAS, Ingrid Rex served as the Deputy City Secretary for the City of Highland Village for three years prior to joining the City of Denton; and

WHEREAS, Ingrid Rex is a Texas Registered Municipal Clerk and a Texas Notary Public; and

WHEREAS, the City Council of the City of Denton has determined that the appointment of Ingrid Rex as Interim City Secretary should be confirmed; and

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitals and findings contained in the preamble of this Resolution are incorporate into the body of Resolution.

SECTION 2. Ingrid Rex is hereby appointed as the Interim City Secretary of the City of Denton, with said appointment to become effective September 13, 2025.

SECTION 3. This resolution is effective immediately upon its passage.

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:  _____



City of Denton

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

Legislation Text

File #: ID 25-066, **Version:** 1

AGENDA CAPTION

Consider approval of the minutes of the August 9, 2025, Budget Workshop Meeting and the August 19, 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: September 9, 2025

SUBJECT

Consider approval of the minutes of the August 9, 2025 Budget Workshop Meeting and the August 19, 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 – August 9, 2025 Budget Workshop Minutes

Exhibit 3 – August 19, 2025 Regular Meeting Minutes

Respectfully submitted:

Lauren Thoden
City Secretary

CITY OF DENTON CITY COUNCIL MINUTES
August 9, 2025

After determining that a quorum is present the City Council of the City of Denton, Texas convened in a Budget Workshop on Saturday, August 9, 2025 at 8:32 a.m. in Training Rooms 1, 2, 3, 4, and 5 at the Development Services Center, 401 N Elm Street, Denton, Texas.

PRESENT: Mayor Gerard Hudspeth, Mayor Pro Tem Suzi Rumohr, Council Members Vicki Byrd, Joe Holland (arrived at 8:45 a.m.), Jill Jester and Brandon Chase McGee (arrived at 8:49 a.m.)

ABSENT: None

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

There was no public registration process as this was a work session only.

WORK SESSION

1. Work Session Reports

- A. ID 24-261 Receive a report, hold a discussion, and give staff direction regarding the Fiscal Year 2025-26 City Manager’s Proposed Budget, Capital Improvement Program, and Five-Year Financial Forecast. [Estimated Presentation/Discussion Time: 2.5 Hours]

The item was presented and discussion followed.

Following discussion, direction was provided as follows for the General Fund One-Time Funding Priorities:

Council Cumulative Ranking		
Ranking	One-Time Consideration	Amount
1	Civic Center Pool Site Analysis and End of Lifecycle Plan	55,000
2	Expiring Incentive roll to Catalyst Fund	38,174
3	In-Kind Funding for special events	120,000
4	Campaign Finance Consultant	70,000
	Total	\$283,174

Council requested follow up information on the following inquiries to be provided in the Friday Report:

- Provide an overview of the Managed Vacancy Program
- Provide an overview of the proposed 4.5 Day Work Week
- Is there an option to use available funding in a Special Revenue Fund to lower the Interest & Sinking (I&S) portion of the tax rate?
- Provide the effect of tax-exempt properties on the City
- Why did the expenses decrease from the current year to the proposed year for the Legends Municipal Utility District Fund?
- What is the sales tax generation from the proposed Ambassador Program boundary?
- Provide a list of the arrests within the Ambassador Program boundary.
- What do delays to Street Funds cost us?
- How do we determine when sidewalks should be replaced at the same time as a street?
- Can the proposed Hotel Occupancy Tax Fund distribution be redistributed by Council?

- B. ID 25-1201 Receive a report, hold a discussion, and give staff direction regarding municipal finance bills of the 89th Legislature first-called special session. [Estimated Presentation/Discussion Time: 1 Hour]

The item was presented and discussion followed.

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

- C. ID 25-1445 Receive training and hold a discussion regarding the City of Denton Code of Ordinances Chapter 2, Article XI (Ethics). [Estimated Presentation/Discussion Time: 30 minutes]

The item was presented and discussion followed.

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

With no further business, the meeting was adjourned at 12:28 p.m.

GERARD HUDSPETH
MAYOR
CITY OF DENTON, TEXAS

LAUREN THODEN
CITY SECRETARY
CITY OF DENTON, TEXAS

MINUTES APPROVED ON: _____

CITY OF DENTON CITY COUNCIL MINUTES
August 19, 2025

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, August 19, 2025, at 2:00 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

ABSENT: Council Member Brandon Chase McGee

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 of 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

All members of the City Council received the comments as submitted and had the opportunity to review all submissions prior to the start of the meeting and consider such comments when voting on the item. The summary of public commentary/registrations 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 Mayor Hudspeth: Item 3.F

3. Work Session Reports

A. ID 25-1439 Receive a report and hold a discussion regarding an update from Denton County Transportation Authority (DCTA). [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.

- B. ID 24-2620 Receive a report, hold a discussion, and give staff direction regarding the preliminary FY 2025-26 City Manager's Proposed Budget and Schedule of Fees. [Estimated Presentation/Discussion Time: 1 hour]

The item was presented and discussion followed.

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

- C. ID 25-338 Receive a report, hold a discussion, and give staff direction regarding Audit Project 045 - Public Works Maintenance: Streets & Drainage. [Estimated Presentation/Discussion Time: 30 minutes]

The item was presented and discussion followed.

Following discussion, City Council consensus was in agreement with Staff's recommendations with a follow-up review project to be performed in 2027.

- D. ID 25-1059 Receive a report, hold a discussion and give staff direction regarding updates to Hickory Street Back-In Parking. [Estimated Presentation/Discussion Time: 30 minutes]

The item was presented and discussion followed.

Following discussion, City Council consensus was to move forward with staff's recommendation (option #1).

The work session ended at 4:53 p.m.

The meeting recessed for a short break at 4:53 p.m.

CLOSED MEETING

1. The City Council convened into a Closed Meeting at 5:08 p.m. consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law, as follows:

- A. ID 25-1220 Consultation with Attorneys - Under Texas Government Code Section 551.071 Receive information from staff regarding Denton County Municipal Utility District No. 12; discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorney regarding issues associated with the above matter where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under Texas Disciplinary Rule of Professional Conduct of the State Bar of Texas or would jeopardize the City's legal position in any administrative or potential litigation.

DELIBERATED

- B. ID 25-1514 Consultation with Attorneys - Under Texas Government Code Section 551.071 Consult with the City's attorneys on the legal status, strategy, and options for responding to Public Information Requests, reference number(s) C001632, C001631, C001630 and C001629, related to Council member records. Consultation with City's attorney regarding issues associated with the aforementioned matter where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under Texas Disciplinary Rule of Professional Conduct of the State Bar of Texas or would jeopardize the City's legal position in any administrative or potential litigation.

DELIBERATED

Council Member Brandon Chase McGee joined the closed meeting at 5:58 p.m.

The closed meeting started at 5:08 p.m. and ended at 6:30 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, August 19, 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 and Council Members Brian Beck, Vicki Byrd, Joe Holland, Jill Jester, and Brandon Chase McGee

ABSENT: None

Also present were Assistant City Manager Frank Dixon and City Attorney Mack Reinwand.

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

1. PLEDGE OF ALLEGIANCE

- A. U.S. Flag
- B. Texas Flag

2. 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 25-1485 Mr. Lee Enochs regarding the homeless crisis.

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.

Additional Citizen Reports (Open Microphone)

Citizen comments received are noted on Exhibit A.

3. CONSENT AGENDA

The Consent Agenda consisted of Items 3.A - 3.AE. During the Work Session held earlier in the day, Item 3.F was pulled for Individual Consideration by Mayor Hudspeth.

Council Member Beck moved to adopt the Consent Agenda, now consisting of Items 3.A-E and 3.G-AE. Motion seconded by Council Member Holland.

Motion carried.

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

NAYS (0): None

- A. ID 25-065 Consider approval of the minutes of the June 17, 2025 Special Called Meeting and the August 5, 2025 Regular Meeting.

APPROVED

- B. ID 25-088 Consider a nomination/reappointment to the City of Denton Committee on Persons with Disabilities.

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

- C. ID 25-1510 Consider a nomination/reappointment to the City of Denton Community Services Advisory Committee.

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

- D. ID 25-1511 Consider a nomination/appointment to the City of Denton Historic Landmark Commission.

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

- E. ID 25-1512 Consider a nomination/appointment to the City of Denton Health and Building Standards Commission.

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

- G. ID 25-1488 Consider approval of a resolution of the City of Denton excusing the July 28, 2025, meeting absence of a Public Utilities Board Member; and providing an effective date.

ASSIGNED RESOLUTION NO. 25-1488

- H. ID 25-1489 Consider approval of a resolution of the City of Denton excusing the July 28, 2025, meeting absence of a Public Utilities Board Member; and providing an effective date.

ASSIGNED RESOLUTION NO. 25-1489

- I. ID 25-1247 Consider adoption of an ordinance of the City of Denton granting Monster Truck Wars, a noise exception for Monster Truck Wars Event on Saturday, September 27, 2025, from 12 p.m. to 8 p.m., and Sunday, September 28, 2025, from 2 p.m. to 4 p.m. at 2217 N. Carroll Boulevard; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1247

- J. ID 25-1334 Consider adoption of an ordinance of the City of Denton granting the Denton Main Street Association a noise exception for the Arts and Autos Extravaganza event, which will be held Friday, September 12, 2025, from 6:00 pm to 9:00 pm; and Saturday, September 13, 2025, from 9:00 am-3:00 pm at 110 W Hickory St. Denton, Tx, 76201, and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1334

- K. ID 25-1339 Consider adoption of an ordinance of the City of Denton granting a noise exception for the Industrial Street Pop Festival event which will be held on Saturday, October 11, 2025, from 1:00 p.m. to 7:00 p.m., at Industrial Street between Hickory Street and Mulberry Street; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1339

- L. ID 25-1340 Consider adoption of an ordinance of the City of Denton granting the Denton Festival Foundation Inc., a three-year noise exception pursuant to Section 17-20 of the City of Denton Code of Ordinances for the Denton Arts and Jazz Festival, which will be held on October 3-5, 2025, October 2-4, 2026, and October 1-3, 2027, Friday and Saturday from 10:00 a.m. to midnight and Sunday from 11:00 a.m. to 11:00 p.m. at Quakertown Park in

Denton, Texas; granting an exception for sound levels exceeding seventy (70) decibels and a variance in the hours of operation on said date; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1340

- M. ID 25-726 Consider adoption of an ordinance of the City of Denton prohibiting right turn movement at the signalized intersection of W University Drive (US 380) and Malone Street when northbound and southbound traffic faces a red signal, between 7 am to 8:30 am and 2:30 pm to 4 pm on school days; providing a repealer clause; providing a savings clause; providing a severability clause; providing for 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 an effective date.

ASSIGNED ORDINANCE NO. 25-726

- N. ID 25-1395 Consider adoption of an ordinance of the City of Denton amending chapter 18 "Motor Vehicles and Traffic", "Article III Speed of Vehicles", Section 18-73 "Speed Limits On Certain Roads And Highways", "School Zones", of the Code of Ordinances of the City of Denton, to change the speed limits of certain parts of McCormick Street, Westwood Drive, and Mercedes Road in the Vicinity of Borman Elementary School; providing a savings clause; providing a severability clause; providing a penalty clause; providing for publication; providing codification; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1395

- O. ID 25-1399 Consider adoption of an ordinance of the City of Denton approving, and authorizing the execution of, an agreement between the City of Denton and Denton Black Film Festival Institute for the expenditure of City Council contingency funds in the amount of seven hundred fifty dollars (\$750) in support of the organization; and providing an effective date. (\$750 - Community Partnership Committee recommends approval 3-0)

ASSIGNED ORDINANCE NO. 25-1399

- P. ID 25-1400 Consider adoption of an ordinance of the City of Denton approving, and authorizing the execution of an agreement between the City of Denton and Greater Denton Arts Council for the expenditure of District 1, City Council contingency funds in the amount of one thousand three hundred twenty-five dollars (\$1,325) in support of the organization; and providing an effective date. (\$1,325 - Community Partnership Committee recommends approval 3-0)

ASSIGNED ORDINANCE NO. 25-1400

- Q. ID 25-1409 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 Burns & McDonnell Engineering

Company, Inc., amending the contract approved by City Council on October 18, 2022, in the not-to-exceed amount of \$1,522,350.00; said first amendment to serve as the System Integrator for the advanced distribution management system to Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7804-005 - providing for an additional first amendment expenditure amount not-to-exceed \$640,224.00, with the total contract amount not-to-exceed \$2,162,574.00). The Public Utilities Board recommends approval (6 - 0).

ASSIGNED ORDINANCE NO. 25-1409

- R. ID 25-1410 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 Anixter Inc., for the purchase of tubular steel and standard steel substation structures for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8645 - awarded to Anixter 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 \$4,607,540.00). The Public Utilities Board recommends approval (6 - 0).

ASSIGNED ORDINANCE NO. 25-1410

- S. ID 25-1411 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a professional services agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by City Council on May 17, 2022, in the not-to-exceed amount of \$751,100.00; amended by Amendment 1 approved by City Council; said second amendment to extend the scope of work, including rerouting the sanitary sewer line, add sewer lines/easements, and an additional full plan set and services for a new lift station for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-010 - providing for an additional second amendment expenditure amount not-to-exceed \$160,000.00, with the total contract amount not-to-exceed \$1,135,400.00). The Public Utilities Board recommends approval (6 - 0).

ASSIGNED ORDINANCE NO. 25-1411

- T. ID 25-1412 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of first amendment between the City of Denton and USIC Locating Services, LLC, amending the contract approved by City Council on July 20, 2021, in the not-to-exceed amount of \$4,500,000.00; said first amendment to continue locating and marking all existing and future installed utility lines for Denton Municipal Electric, Technology Services, Water, and Wastewater Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 7672 - providing for an additional first amendment expenditure amount not-to-exceed \$1,125,000.00, with the

total contract amount not-to-exceed \$5,625,000.00). The Public Utilities Board recommends approval (6 - 0).

ASSIGNED ORDINANCE NO. 25-1412

- U. ID 25-1413 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8787 for Workwear for the Purchasing Department; and providing an effective date (RFP 8787).

ASSIGNED ORDINANCE NO. 25-1413

- V. ID 25-1414 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8794 for the Employee Vision Plan for the Human Resources Department; and providing an effective date (RFP 8794).

ASSIGNED ORDINANCE NO. 25-1414

- W. ID 25-1415 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8798 for the Employee Dental Plan for the Human Resources Department; and providing an effective date (RFP 8798).

ASSIGNED ORDINANCE NO. 25-1415

- X. ID 25-1416 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 Midwest Veterinary Supply, Inc., for the supply of kennel and veterinary supplies for the City of Denton's Animal Services Shelter; providing for the expenditure of funds therefor; and providing an effective date (IFB 8862 - awarded to Midwest Veterinary Supply, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,500,000.00).

ASSIGNED ORDINANCE NO. 25-1416

- Y. ID 25-1417 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 FARO Technologies, Inc., for the FARO 3D Laser Scanner System Upgrade for the Police Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8866 - awarded to FARO Technologies, 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 \$85,874.50).

ASSIGNED ORDINANCE NO. 25-1417

- Z. ID 25-1215 Consider approval of a resolution of the City of Denton, Texas, ratifying the initial bylaws for the Denton City Public Facility Corporation; and providing an effective date.

ASSIGNED RESOLUTION NO. 25-1215

- AA. ID 25-1477 Consider adoption of an ordinance of the City of Denton approving an amended employment agreement setting the compensation and terms for the City Manager, Sara Hensley to allow for increases to base salary and other financial and non-financial components of compensation without further amendment or renewal of said agreement; to allow payment to employee in lieu of unused, accrued sick leave for up to fifteen (15) days per year beginning in the current fiscal year; to provide an additional fifteen (15) days of paid vacation leave to be accrued in the current fiscal year.; authorizing the Mayor to execute the agreement; authorizing the expenditure of funds; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1477

- AB. ID 25-1476 Consider adoption of an ordinance of the City of Denton approving an amended compensation agreement setting the compensation and terms for the Presiding Judge, Tyler Atkinson with an effective date of August 19, 2025 and ending date of September 30, 2026; to allow for increases to base salary and other financial and non-financial components of compensation without further amendment or renewal of said agreement; to allow payment to employee in lieu of unused, accrued sick leave for up to seven (7) days per year; authorizing the Mayor to execute the agreement; authorizing the expenditure of funds; and providing an effective date..

ASSIGNED ORDINANCE NO. 25-1476

- AC. ID 25-1475 Consider adoption of an ordinance of the City of Denton approving a third amended employment agreement setting the compensation and terms for City Auditor, Madison Rorschach to allow for increases to base salary and other financial and non-financial components of compensation without further amendment or renewal of said agreement; to allow payment to employee in lieu of unused, accrued sick leave for up to seven (7) days per year; authorizing the Mayor to execute the agreement; authorizing the expenditure of funds; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1475

- AD. ID 25-1474 Consider adoption of an ordinance of the City of Denton approving an amended employment agreement setting the compensation and terms for the City Attorney, Mack Reinwand, to allow for increases to base salary and other financial and non-financial components of compensation without further amendment or renewal of said agreement; to allow payment to employee in lieu of unused, accrued sick leave for up to fifteen (15) days

per year; authorizing the Mayor to execute the agreement; authorizing the expenditure of funds; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1474

- AE. ID 25-1458 Consider adoption of an ordinance of the City of Denton, Texas approving the execution and delivery of a financing agreement with the Texas Water Development Board regarding the issuance of utility system revenue bonds by the City for waterworks system improvements and related issuance costs, and approving the obligations of the City with respect to such agreement; authorizing the City Manager, City Secretary and Chief Financial Officer to take the actions necessary to accomplish the purposes of the ordinance and resolving other matters relating to the subject; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1458

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

- F. ID 25-1513 Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.

APPROVED

APPOINTMENT LISTED ON EXHIBIT B

The item was presented, and discussion followed.

Following discussion, Council Member Beck moved to appoint the nominee as noted on Exhibit B. Motion seconded by Council Member McGee.

Motion carried.

AYES (4): Mayor Pro Tem Rumohr and Council Members Beck, Byrd, and McGee

NAYS (3): Mayor Hudspeth, Council Members Holland and Jester

4. PUBLIC HEARINGS

- A. Z25-0007b 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. (Z25-0007b, Kalyans, Julie Wyatt)

ASSIGNED ORDINANCE NO. Z25-0007b

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 in queue, the public hearing was closed.

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

Motion carried.

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

NAYS (0): None

B. S25-0004a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, approving a Specific Use Permit to allow for a Boarding House use on approximately 0.403 acres of land, generally located at the southwest corner of the intersection of West Oak Street and Fry 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 an effective date. The Planning and Zoning Commission voted [4-0] to recommend approval of the request. Motion for approval by Commissioner Riggs and second by Commissioner McDuff. (S25-0004a, 1305 Oak Boarding House, Matt Bodine)

ASSIGNED ORDINANCE NO. S25-0004a

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 in queue, the public hearing was closed.

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

Motion carried.

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

NAYS (0): None

- C. Z25-0004a 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 Rural Residential (RR) District to Heavy Industrial (HI) District on approximately 21.800 acres of land generally located at the southwest corner of the intersection of Spring Side Road and Corbin Road, 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 [3-1] to recommend approval of the request. Motion for approval by Commissioner McDuff and second by Commissioner Riggs. (Z25-0004a, Spring Side Road Industrial, Matt Bodine)

ASSIGNED ORDINANCE NO. Z25-0004a

All members of the City Council received the comments as submitted and had the opportunity to review all submissions prior to the start of the meeting and consider such comments when voting on the item. The summary of public commentary/registrations are noted on Exhibit A.

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 in queue, the public hearing was closed.

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

Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Byrd, Holland, Jester, and McGee

NAYS (1): Council Member Beck

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 25-1039 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 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.

ASSIGNED RESOLUTION NO. 25-1039

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 McGee moved to adopt the item as presented. Motion seconded by Mayor Pro Tem Rumohr.

Motion carried.

AYES (6): Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (1): Mayor Hudspeth

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.

ASSIGNED RESOLUTION NO. 25-1316

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 McGee moved to adopt the item as presented. Motion seconded by Mayor Pro Tem Rumohr.

Motion carried.

AYES (6): Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Holland, Jester, and McGee

NAYS (1): Mayor Hudspeth

C. ID 25-1143 Consider adoption of an ordinance of the City of Denton, Texas, updating impact fees by amending Article VI "Impact Fees" of Chapter 26, "Utilities," Sections 26-213, 26-216 through 26-222, and Section 26-228 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; revising provisions for the assessment and collection of impact fees; repealing conflicting ordinances and resolutions; providing severability and penalty clauses; and providing an effective date.

ASSIGNED ORDINANCE NO. 25-1143

All members of the City Council received the comments as submitted and had the opportunity to review all submissions prior to the start of the meeting and consider such comments when voting on the item. The summary of public commentary/registrations are noted on Exhibit A.

The item was presented and discussion followed.

Citizen comments are noted on Exhibit A.

Following discussion, Council Member Jester moved to adopt the item with the effective date of June 1, 2026. Motion seconded by Council Member Holland.

Motion carried.

AYES (4): Mayor Hudspeth and Council Members Holland, Jester, and McGee

NAYS (3): Mayor Pro Tem Rumohr and Council Members Beck and Byrd

D. HL25-0001a Consider approval of a resolution of the City of Denton approving an application for a partial tax exemption of designated historic sites, in accordance with Chapter 10, Article VI, Sections 10-126 through 10-129 of the Denton Municipal Code of Ordinances, for a Local Historic Landmark located at 314 Marietta Street, located on the east side of Marietta Street, between W. Oak Street and Houston Place; providing for severability; and providing an effective date. The Historic Landmark Commission recommends a favorable determination (5-0). (HL25-0001a, 314 Marietta Street - Tax Exemption, Cameron Robertson)

ASSIGNED RESOLUTION NO. HL25-0001a

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

Motion carried.

AYES (6): Mayor Hudspeth, Mayor Pro Tem Rumohr and Council Members Beck, Byrd, Jester, and McGee

NAYS (1): Council Member Holland

E. ID 24-2621 Consider approval of a resolution of the City Council of the City of Denton, Texas placing a proposal on the September 16, 2025, City Council public meeting agenda to adopt a 2025 Tax Rate that will exceed the lower of the no-new-revenue tax rate or the voter

approval tax rate; calling a public hearing on the proposed tax rate which will result in an increase in tax revenue to the City for fiscal year 2025-26, to be held on September 9, 2025; calling a public hearing on the budget for the fiscal year 2025-26 Annual Program of Services of the City of Denton to be held on September 9, 2025; requiring the publication and posting of notices of the public hearings and meetings in accordance with the law; and providing an effective date.

ASSIGNED RESOLUTION NO. 24-2621

All members of the City Council received the comments as submitted and had the opportunity to review all submissions prior to the start of the meeting and consider such comments when voting on the item. The summary of public commentary/registrations are noted on Exhibit A.

The item was presented and discussion followed.

Citizen comments are noted on Exhibit A.

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

Motion carried.

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

NAYS (0): None

6. CONCLUDING ITEMS

Council Members expressed items of interest.

With no further business, the meeting was adjourned at 9:46 p.m.

GERARD HUDSPETH
MAYOR
CITY OF DENTON, TEXAS

LAUREN THODEN
CITY SECRETARY
CITY OF DENTON, TEXAS

MINUTES APPROVED ON: _____

EXHIBIT A - Speaker Commentaries/Registrations at August 19, 2025 City Council Special Meeting

Name	Last	Address	City	Agenda Item	Position	Method	Comments
Brett	Wilson		Denton 76208	3.K 25-1339	Support	eComment	We need to support Arts and Jazz as much as we can.
Brett	Wilson		Denton 76208	3.Q 25-1399	Oppose	eComment	Denton should not spend money to support an organization that racially discriminates. The DBFF does not allow or accept submissions from White/ Hispanic/ Asian film makers. This is racist and the city should not support it.
Dan	Burnam	265 Casie Ct.	Denton 76207	2.A 2) #1		Open Mic	
Terry	Nobles	733 Fort Worth Dr	Denton 76201	2.A 2) #2		Open Mic	
Aimee	Bissett	109 N. Elm	Denton 76201	4.A Z25-0007b	Support	PH	Applicant
Brandan	Bell	318 E. Lloyd St.	Krum 76249	4.B S25-0004a	Support	PH	Applicant
Brett	Wilson		Denton 76208	4.C Z25-0004a	Oppose	eComment	To quote a legend, "pave paradise and put up a parking lot"
Kelli	Holdslaw	2161 Underwood Rd	Denton 76207	4.C Z25-0004a	Oppose	PH	Public comment
Barbara	Whitworth	4083 Corbin Rd	Denton 76207	4.C Z25-0004a	Oppose	PH	Public comment
Greg	Johnson	3190 Teasley	Denton 76205	4.C Z25-0004a	Support	PH	Applicant
Nathan	Tune	3201 Carmel St.	Denton 76205	4.C Z25-0004a	Support	PH	Did not speak
Corrie	Bargus	1933 Canyon Ct.	Denton 76209	5.A 25-1039	Support	IC	Public comment
Charlie	Price	1509 S. University Dr.	Ft. Worth	5.A 25-1039	Support	IC	Public comment
Brett	Wilson		Denton 76208	5.C 25-1143	Oppose	eComment	Utilities are already too high. There is already enough money to go around. Do not increase fees
Eric	Pruett	921 Oakland St.	Denton 76201	5.C 25-1143	Support	IC	Public comment
Brett	Wilson		Denton 76208	5.E 24-2621	Oppose	eComment	I oppose. The city has enough money to go around. We do not need to raise taxes (again). Instead of raising taxes, let's try a 'DOGE' approach for Denton. Make the government more efficient. #DentonDOGE. Texas has some of the smartest people around, I'm sure they'd be willing to help.
Andrew	Brennfoerder	2013 Del Mar Ct	Denton 76210	5.E 24-2621	Oppose	eComment	As a Denton homeowner, I strongly oppose the City's proposal to raise the tax rate above both the no-new-revenue and voter-approved thresholds. Many residents are already struggling with rising costs, and this adds burden without accountability. There is no reason to raise taxes beyond what voters agreed to as doing so disrespects the will of the people. The City should prioritize responsible budgeting. I urge Council to reject this hike and act with fiscal discipline.
Tom	Hurst	3850 Hartlee Field	Denton	5.E 24-2621	Oppose	eComment	Why should we pay for your poor choices and inability to be good stewards of the tax payers money.
Joshua	Pryor	1105 Buena Vista Dr.	Denton	5.E 24-2621	Oppose	eComment	Let's not make it even harder to own a home. I oppose.
Scott	Wood		Denton 76201	5.E 24-2621	Oppose	eComment	I do not support raising of property taxes.
Daniel	Wynne	1924 Buckeye Dr.	Flower Mound	5.E 24-2621	Oppose	eComment	Raising taxes during an economic downturn is generally a bad idea. Please do not add an additional burden to your constituents.

EXHIBIT B - BOARDS & COMMISSIONS - APPOINTEES
August 19, 2025

BOARD/COMMITTEE/COMMISSION	COUNCIL PLACE	NOMINATED BY CCM	APPOINTED	PRESENT TERM	NEW TERM	STATUS & QUALIFICATION OR PREFERENCE, IF ANY
Planning and Zoning Commission	1	Byrd	Sherri McDade	Term 1	September 1, 2025 through August 31, 2027	N/A
Committee on Persons with Disabilities	1	Byrd	Isaiah Heck	Term 2	September 1, 2025 through August 31, 2027	N/A
Community Services Advisory Committee	1	Byrd	Kamyon Conner	Term 1	September 1, 2025 through August 31, 2027	N/A
Health and Building Standards Commission	3	Rumohr	Casey Straughn	N/A	September 1, 2025 through August 31, 2027	1. General Contractor
Historic Landmark Commission	3	Rumohr	Jonathan Black	N/A	September 1, 2025 through August 31, 2027	6. Folklore, and 7. Cultural Anthropology



City of Denton

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

Legislation Text

File #: ID 25-1575, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the Denton Police Department Chief of Police Advisory Board.



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: September 9, 2025

SUBJECT

Consider a nomination to the Denton Police Department Chief of Police Advisory Board.

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 renomination of Donna Smith was received from Council Member Holland (District 4) for a vacancy on the Denton Police Department Chief of Police Advisory Board. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2028.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 25-1571, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the Denton Police Department Chief of Police Advisory Board.



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: September 9, 2025

SUBJECT

Consider a nomination to the Denton Police Department Chief of Police Advisory Board.

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 renomination of Daniel Clanton was received from Council Member Byrd (District 1) for a vacancy on the Denton Police Department Chief of Police Advisory Board. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2028.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 25-1569, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Library Board.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Library Board.

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 Jean Greenlaw was received from Council Member Byrd (District 1) for a vacancy on the Library Board. 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



City of Denton

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

Legislation Text

File #: ID 25-1572, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Planning & Zoning Commission.

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 renomination of Erica Garland was received from Mayor Hudspeth for a vacancy on the Planning & Zoning Commission. 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



City of Denton

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

Legislation Text

File #: ID 25-1576, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Planning & Zoning Commission.

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 Daniel Ketchersid was received from Council Member McGee (At Large, Place 5) for a vacancy on the Planning & Zoning Commission. The vacancy is for an unexpired term commencing September 1, 2024 and ending August 31, 2026.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 25-1568, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Public Utilities Board.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Public Utilities Board.

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 renomination of Robert Rayner was received from Council Member Jester (At Large, Place 6) for a vacancy on the Public Utilities Board. The vacancy is for a term commencing September 1, 2025 and ending August 31, 2029.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 25-1570, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment 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: September 9, 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 renomination of Liam Guame-Wakefield was received from Council Member Byrd (District 1) for a vacancy on the City of Denton Zoning Board of Adjustment. 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



City of Denton

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

Legislation Text

File #: ID 25-1635, **Version:** 1

AGENDA CAPTION

Consider a nomination/reappointment to the City of Denton Planning and Zoning Commission.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Planning & Zoning Commission.

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 renomination of Lisa Dyer was received from Council Member Holland (District 4) for a vacancy on the Planning & Zoning Commission. 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



City of Denton

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

Legislation Text

File #: ID 25-1636, **Version:** 1

AGENDA CAPTION

Consider a nomination/appointment to the City of Denton Historic Landmark Commission.



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: September 9, 2025

SUBJECT

Consider a nomination to the City of Denton Historic Landmark Commission.

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 John Hoenig was received from Council Member Byrd (District 1) for a vacancy on the Historic Landmark Commission. The vacancy is for an unexpired term commencing September 1, 2024 and ending August 31, 2026.

EXHIBIT

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 25-1574, **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: September 9, 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 renomination of Camelia Maier was received from Council Member Byrd (District 1) for a vacancy on the City of Denton 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



City of Denton

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

Legislation Text

File #: ID 25-1486, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution authorizing the City Manager to sign a Memorandum of Understanding with the City of Arlington, City of Fort Worth, Dallas Fort Worth International Airport, Perot Field, and the City of Mineral Wells regarding the development of an airport coalition of take-off and landing locations for electric vertical take-off and landing (eVTOL) vehicles; and providing an effective date. Airport Advisory Board recommends approval (5-0).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Denton Enterprise Airport

ACM: Frank Dixon

DATE: September 9, 2025

SUBJECT

Consider approval of a resolution authorizing the City Manager to sign a Memorandum of Understanding with the City of Arlington, City of Fort Worth, Dallas Fort Worth International Airport, Perot Field, and the City of Mineral Wells regarding the development of an airport coalition of take-off and landing locations for electric vertical take-off and landing (eVTOL) vehicles; and providing an effective date. Airport Advisory Board recommends approval (5-0).

BACKGROUND

The purpose of this MOU is to collaboratively explore the creation of a regional airport coalition of take-off and landing locations, including vertiports and helipads, to support the emerging eVTOL vehicle industry. The MOU involves the City of Arlington, City of Fort Worth, Dallas Fort Worth International Airport, Perot Field, and Dallas Airport System. The collaboration aims to position the DFW region as a global leader in the Advanced Air Mobility (AAM) sector by promoting innovation, investment, and workforce development.

Key points include:

- Advances in aviation technology, such as eVTOL vehicles, necessitate the development of dedicated infrastructure.
- The DFW region's robust transportation infrastructure and central geographic location make it ideal for AAM adoption.
- Collaboration among local governments, airport authorities, and stakeholders is critical for coordinated infrastructure development and regulatory compliance.
- Attracting OEMs to the region will enhance leadership in the AAM sector and provide opportunities for technology deployment and commercialization.

The other parties will sign the MOU concurrently or after the City of Denton

STAFF RECOMMENDATION

Airport Staff recommends approval of the Resolution (**Exhibit 3**).

FISCAL INFORMATION

There are no immediate fiscal impacts associated with this MOU as it is non-binding and does not create any legally enforceable rights or obligations, including any monetary obligation.

EXHIBITS

1. Agenda Information Sheet
2. Resolution
3. Memorandum of Understanding

Respectfully submitted:
Ryan Adams, C.M.
Airport Director

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF ARLINGTON, CITY OF FORT WORTH, DALLAS FORT WORTH INTERNATIONAL AIRPORT, PEROT FIELD, AND THE CITY OF MINERAL WELLS REGARDING THE DEVELOPMENT OF AN AIRPORT COALITION OF TAKE-OFF AND LANDING LOCATIONS FOR ELECTRIC VERTICAL TAKE-OFF AND LANDING (eVTOL) VEHICLES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, advances within the aviation industry have led to the development of emerging technologies, such as electric vertical take-off and landing (eVTOL) vehicles, to transport people or cargo at lower altitudes and within shorter ranges than traditional aircraft; and

WHEREAS, the Dallas-Fort Worth (DFW) region is uniquely positioned to lead in the adoption and implementation of Advanced Air Mobility (AAM) technologies due to its robust transportation infrastructure, central geographic location, and commitment to innovation; and

WHEREAS, the collaboration of local governments, airport authorities, and stakeholders is critical to ensuring a coordinated approach to infrastructure development, regulatory compliance, and integration into the National Airspace System (NAS); and

WHEREAS, attracting original equipment manufacturers (OEMs) developing eVTOL vehicles to the DFW region would further enhance the region's leadership in the AAM sector and provide opportunities for technology deployment, testing, and commercialization; and

WHEREAS, at the August 13, 2025, meeting of the Airport Advisory Board, the Board recommended that the City approve the Memorandum of Understanding (MOU) by a vote of 5 to 0; and

WHEREAS, the MOU parties recognize the importance of fostering regional collaboration to establish scalable and interoperable infrastructure solutions for AAM operations and seek to position the DFW region as a global leader in the AAM sector by promoting innovation, investment, and workforce development in the industry; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The City Council hereby authorizes the City Manager, or designee, to sign a Memorandum of Understanding with the City of Arlington, City of Fort Worth, Dallas Fort Worth International Airport, Perot Field, and the City of Mineral Wells regarding the development of an Airport Coalition of take-off and landing locations for electric vertical take-off and landing (eVTOL) vehicles.

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
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
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: _____

MEMORANDUM OF UNDERSTANDING

BETWEEN

City of Arlington, City of Denton, Dallas-Fort Worth International Airport, City of Fort Worth, City of Mineral Wells, and Perot Field

REGARDING

Development of an Airport Coalition of Take-Off and Landing Locations for Electric Vertical Take-Off and Landing (eVTOL) Vehicles

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into by and between the City of Arlington, City of Denton, Dallas Fort-Worth International Airport, City of Fort Worth, City of Mineral Wells, and Perot Field (collectively referred to as the "Parties"), to set forth their mutual understanding and intention to collaboratively explore the creation of a regional airport coalition of take-off and landing locations, including vertiports and helipads, to support the emerging electric vertical take-off and landing (eVTOL) vehicle industry.

WHEREAS, advances within the aviation industry have led to the development of emerging technologies, such as electric vertical take-off and landing (eVTOL) to transport people or cargo at lower altitude and within shorter range than traditional aircraft; and

WHEREAS, the Dallas-Fort Worth (DFW) region is uniquely positioned to lead in the adoption and implementation of Advanced Air Mobility (AAM) technologies due to its robust transportation infrastructure, central geographic location, and commitment to innovation;

WHEREAS, key to the development of regulations and ultimate integration of AAM into the National Airspace System (NAS) is the creation of dedicated test and development corridors ("AAM Corridors") for the demonstration, development, and evaluation of Uncrewed Aircraft Systems (UAS) and AAM technologies within a safe designated airspace; and

WHEREAS, the creation of dedicated test and development corridors or routes will necessitate a network of take-off and landing infrastructure such as vertiports, helipads or other specially designed landing platforms;

WHEREAS, the development of such AAM Corridors or Routes are essential to ultimate certification and operationalization of UAS and AAM technologies; and

WHEREAS, the collaboration of local governments, airport authorities, and stakeholders is critical to ensuring a coordinated approach to infrastructure development, regulatory compliance, and integration into the National Airspace System (NAS);

WHEREAS, attracting original equipment manufacturers (OEMs) developing eVTOL vehicles to the DFW region would further enhance the region’s leadership in the AAM sector and provide opportunities for technology deployment, testing, and commercialization;

WHEREAS, the Parties recognize the importance of fostering regional collaboration to establish scalable and interoperable infrastructure solutions for AAM operations;

WHEREAS, the Parties seek to position the DFW region as a global leader in the AAM sector by promoting innovation, investment, and workforce development in the industry;

WHEREAS, the Parties recognize that partnerships among local municipalities, airports, and private stakeholders are key to achieving an integrated and accessible AAM ecosystem;

WHEREAS, the Parties when appropriate are dedicated to supporting the development of pilot programs and demonstration projects to showcase the potential of AAM technologies and foster public trust;

WHEREAS, the Parties acknowledge the necessity of workforce development initiatives to ensure a skilled and diverse labor pool for the growth and sustainability of the AAM industry;

WHEREAS, each Party has an immediate interest in the development of a network of take-off and landing locations in the Dallas-Fort Worth (DFW) region; and

WHEREAS, each Party is thereby interested in establishing a partnership among the Parties to jointly develop, evaluate, and potentially commercialize eVTOL activity in the DFW region;

NOW, THEREFORE, the Parties agree as follows:

1. **Purpose** This MOU outlines the intent of the Parties to collaborate on exploring and planning the creation of a regional Airport Coalition of take-off and landing locations, such as vertiports and helipads, to support AAM integration into the National Airspace System (NAS) and encourage the growth of the AAM industry in the DFW region.
2. **Non-Binding Nature** This MOU is non-binding and does not create any legally enforceable rights or obligations, including any monetary obligation. It is intended solely to document the mutual understanding and intention of the Parties to work together toward a common goal.
3. **Scope of Collaboration** The Parties agree to, subject to applicable state and federal law:
 - a. Identify and evaluate potential sites within the DFW region for vertiports, helipads, and other infrastructure required for eVTOL operations.
 - b. Develop a coordinated strategy for regulatory compliance, safety standards, and operational guidelines to support the deployment of eVTOL technologies.
 - c. Engage with OEMs developing eVTOL vehicles to encourage them to bring their technology to the DFW region for testing, demonstration, and commercial operations.
 - d. Seek opportunities for public-private partnerships, federal and state funding, and other resources to support AAM infrastructure development.
 - e. Promote public awareness and engagement to ensure community support and understanding of the benefits and impacts of AAM initiatives.

4. **Commitments of the Parties** The Parties agree to work in good faith to achieve the objectives outlined in this MOU by:
 - a. Sharing information as allowed by applicable state and federal law, resources, and expertise related to AAM infrastructure planning and development.
 - b. Participating in regular meetings, workshops, and joint planning efforts.
 - c. Coordinating with relevant federal and state agencies, including the Federal Aviation Administration (FAA), to align with regulatory requirements and best practices.
5. **Duration** This MOU shall become effective upon the date of the last signature below and remain in effect for a period of five (5) years, unless terminated earlier by mutual written agreement of the Parties.
6. **Amendments** This MOU may be amended or modified by mutual written agreement of all Parties.
7. **Termination** Any Party may withdraw from this MOU by providing thirty (30) days' written notice to the other Parties.

SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding as of the dates set forth below:

City of Arlington:

Signature: _____
 By: _____
 Title: _____
 Date: _____

City of Fort Worth:

Signature: _____
 By: _____
 Title: _____
 Date: _____

City of Denton:

Signature: _____
 By: _____
 Title: _____
 Date: _____

City of Mineral Wells:

Signature: _____
 By: _____
 Title: _____
 Date: _____

Dallas-Fort Worth International Airport:

Signature: _____
 By: _____
 Title: _____
 Date: _____

Perot Field:

Signature: _____
 By: _____
 Title: _____
 Date: _____



City of Denton

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

Legislation Text

File #: ID 25-1499, 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 Mountain Cascade of Texas, LLC, for the construction and movement of public water/wastewater utilities in support of TxDOT's FM 1515 widening from I-35 Frontage Road to Westcourt Road for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (IFB 7968-007 - awarded to Mountain Cascade of Texas, LLC, in the not-to-exceed amount of \$4,987,742.55). The Public Utilities Board recommends approval (5 - 0).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Mountain Cascade of Texas, LLC, for the construction and movement of public water/wastewater utilities in support of TxDOT’s FM 1515 widening from I-35 Frontage Road to Westcourt Road for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (IFB 7968-007 – awarded to Mountain Cascade of Texas, LLC, in the not-to-exceed amount of \$4,987,742.55). [The Public Utilities Board recommends approval \(5 - 0\).](#)

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Texas Department of Transportation (TxDOT) has proposed a widening of FM 1515 from Interstate Highway 35 Frontage Road (I-35) to Westcourt Road with an estimated construction start of late 2025. The FM 1515 Utility Relocation Project will move public utilities in support of TxDOT with the removal and installation of 7,796 linear feet of water and wastewater utilities from I-35 Frontage Road to Westcourt Road. To align with TxDOT FM 1515 widening, the project is scheduled for 300 days to final completion. Since the project is a forced relocation of City of Denton utilities, there will be reimbursements from TxDOT to support this effort.

The FM 1515 Utility Relocation Project has a total estimated cost of \$4,987,742.55. This estimate includes a \$4,750,231.00 total base bid amount and a contingency of \$237,511.55. A five (5) percent contingency allowance, if any, is for the sole use of the City and will be subject to written authorization by the City’s Project Manager and Program Manager.

Project Description	Estimated Project Expenditure
Construction of Water Utilities	\$4,118,737.80
Construction of Wastewater Utilities	631,493.20
5% Contingency Allowance	237,511.55
Total NTE Amount:	\$4,987,742.55

In an effort to meet TxDOT’s anticipated roadway construction schedule, a Request for Qualifications for utility relocation construction services was solicited using the City’s formal solicitation process. City Council approved a pre-qualified list of professional service firms on June 7, 2022 (Ordinance 22-1145).

Invitation for Bids was sent to the three pre-qualified firms. Two (2) bids meeting specifications were received. The lowest bid was received from Mountain Cascade of Texas, LLC. The primary factor contributing to this discrepancy is the method by which each vendor handles pipe fusion. Mountain Cascade has the capability to fuse HDPE water main pipe in-house, utilizing their own equipment and skilled workforce. This streamlines operations, reduces costs associated with transportation, and eliminates the need to pay third-party contractors for this specialized service. As a result, their bid reflects a lower overall cost.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 7, 2022, City Council approved RFQ 7968 for a prequalified list of firms for utility relocation and construction services for various Capital Investment Projects (Ordinance 22-1145).

On August 25, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award a contract with Mountain Cascade of Texas, LLC, for the construction and movement of public water/wastewater utilities in support of TxDOT’s FM 1515 widening from I-35 Frontage Road to Westcourt Road for the Capital Projects Department, in a not-to-exceed amount of \$4,987,742.55.

PRINCIPAL PLACE OF BUSINESS

Mountain Cascade of Texas, LLC
Alvarado, TX

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval with a final completion date within 300 days.

FISCAL INFORMATION

These items/services will be funded from a combination of the following accounts.

TXDOT I-35N WATER LINE RELOCATION	630573517.1365.401000	\$3,400,000
TXDOT I-35N WATER LINE RELOCATION	630511523.1365.401000	\$718,737.80
TXDOT I-35N WW LINE RELOCATION	640529545.1365.401000	\$631,493.20

Requisition #171524 has been entered into the Purchasing software system in the amount of \$4,750,231. The budgeted amount for this item is \$4,987,742.55.

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: Shawn Messick, 940-349-8390.

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 MOUNTAIN CASCADE OF TEXAS, LLC, FOR THE CONSTRUCTION AND MOVEMENT OF PUBLIC WATER/WASTEWATER UTILITIES IN SUPPORT OF TXDOT'S FM 1515 WIDENING FROM I-35 FRONTAGE ROAD TO WESTCOURT ROAD FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (IFB 7968-007 – AWARDED TO MOUNTAIN CASCADE OF TEXAS, LLC, IN THE NOT-TO-EXCEED AMOUNT OF \$4,987,742.55).

WHEREAS, on June 7, 2022, the City Council approved a pre-qualified list for utility relocation and construction services for various Capital Improvement Projects (Ordinance 22-1145), and the provider (the "Provider") mentioned in this ordinance is being selected as being the most advantageous to the City considering the relative importance of price and the other evaluation factors; 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 City Manager, or their designee, is hereby authorized to enter into an agreement with Mountain Cascade of Texas, LLC, to provide construction services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

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

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

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

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

The motion to approve this ordinance was made by _____ 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.

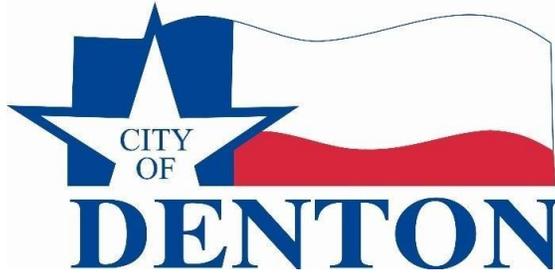
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

IFB	7968-007
File Name	FM 1515 Utilities Relocation
Purchasing Contact	Cori Power
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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SECTION 00 52 43
AGREEMENT – UNIT PRICE BID

THIS AGREEMENT, authorized on _____ is made by and between the City of Denton, a Texas home-rule municipal corporation, acting by and through its duly authorized City Manager, (“City”), and Mountain Cascade of Texas, LLC, authorized to do business in Texas, acting by and through its duly authorized representative, (“Contractor”).

City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

Contractor shall complete all Work as specified or indicated in the Contract Documents for the Project identified herein.

Article 2. PROJECT

The project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

FM 1515 Utilities Relocation
7968-007 / 230011-1

Article 3. CONTRACT PRICE

City agrees to pay Contractor for performance of the Work in accordance with the Contract Documents an amount, in current funds, of Four million seven hundred fifty thousand two hundred thirty-one dollars and 00/100 cents (\$4,750,231.00). At the sole option of the City, five (5) percent contingency in the amount of Two hundred thirty-seven thousand five hundred eleven dollars and fifty-five cents (\$237,511.55) may be used for a total not-to-exceed amount of Four million nine hundred eighty-seven thousand seven hundred forty-two dollars and fifty-five cents (\$4,987,742.55).

Article 4. CONTRACT TIME

4.1 Time is of the essence.

All time limits for Milestones, if any, and Final Acceptance as stated in the Contract Documents are of the essence to this Contract.

4.2 Final Acceptance.

The Work will be completed for Final Acceptance within 300 Days after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

1 4.3 Liquidated Damages:

2 A. Contractor recognizes that *time is of the essence* to achieve Milestones and Final
3 Acceptance of the Work, and City will suffer financial and other losses if the Work is
4 not completed within the times specified in the Contract Documents. The Contractor
5 also recognizes the delays, expense and difficulties involved in proving, in a legal or
6 arbitration proceeding, the actual loss suffered by the City if the Work related to the
7 Milestones or Final Acceptance is not completed on time. Accordingly, instead of
8 requiring any such proof, Contractor agrees that liquidated damages for delay (but not
9 as a penalty):

10 1. *Final Acceptance*: If Contractor neglects, refuse, or fails to complete the Work
11 within the time (as duly adjusted pursuant to the Contract) specified in Paragraph
12 4.2, for completion and readiness for Final Payment, Contractor shall pay City Six
13 hundred and twenty-five Dollars (\$625.00) for each day that expires after such time,
14 until the date determined by City as stated in the City-issued Letter of Final
15 Acceptance.

16 **Article 5. CONTRACT DOCUMENTS**

17 5.1 CONTENTS:

18 A. The Contract comprises the entire agreement between City and Contractor concerning the
19 Work and consists of this Agreement and the items set forth below. The Contract
20 Documents consist of all items below other than this Agreement.

21 1. Attachments to this Agreement:

- 22 a. Proposal Form
23 1) Bid Form
24 2) Unit Price Proposal Form
25 ~~3) Vendor Compliance to State Law Non-Resident Offeror~~
26 4) State and Federal documents (*project specific*)
27 b. Current Prevailing Wage Rate Table
28 c. Worker's Compensation Affidavit
29 d. General Conditions.
30 e. Supplementary Conditions.

31 2. The following located in File 7968-007 at:

- 32 [https://lfpubweb.cityofdenton.com/MaterialsManagement/Browse.aspx?id=19&](https://lfpubweb.cityofdenton.com/MaterialsManagement/Browse.aspx?id=19&dbid=0&repo=MaterialsManagement&cr=1)
33 [dbid=0&repo=MaterialsManagement&cr=1](https://lfpubweb.cityofdenton.com/MaterialsManagement/Browse.aspx?id=19&dbid=0&repo=MaterialsManagement&cr=1)
34 a. Specifications described in the Table of Contents of the Project's Contract
35 Documents.
36 b. Drawings.
37 c. Addenda.
38 d. Documentation submitted by Contractor prior to Notice of Award.

39 3. The following which shall be issued after the Effective Date and delivered to the City
40 within ten (10) days of the Effective Date and before beginning Work:

- 41 a. Payment Bond
42 b. Performance Bond
43 c. Maintenance Bond
44 d. Power of Attorney for the Bonds
45 e. Form 1295 – Certificate of Interested Parties (email to purchasing)
46 f. Insurance Certificate

- 1 4. Specifications specifically made a part of the Contract Documents by attachment or,
- 2 if not attached, as incorporated by reference and described in the Table of Contents
- 3 of the Project’s Contract Documents.
- 4 5. The following which may be delivered or issued after the Effective Date of the
- 5 Agreement and, if issued, become an incorporated part of the Contract Documents:
- 6 a. Notice to Proceed.
- 7 b. Field Orders.
- 8 c. Change Orders.
- 9 d. Letter of Final Acceptance.

10 **Article 6. INDEMNIFICATION**

11 **6.1 CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD**
 12 **HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS,**
 13 **ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND**
 14 **AGAINST ANY AND ALL CLAIMS FOR PERSONAL INJURY OR DEATH,**
 15 **ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN**
 16 **CONNECTION WITH THE WORK AND SERVICES TO BE PERFORMED BY THE**
 17 **CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS,**
 18 **LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS**
 19 **INDEMNIFICATION PROVISION IS SPECIFICALLY INTENDED TO OPERATE**
 20 **AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR**
 21 **SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN**
 22 **PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY. THIS**
 23 **INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT**
 24 **LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND**
 25 **LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH**
 26 **CLAIMS AND CAUSES OF ACTIONS.**

27

28 **6.2 CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD**
 29 **HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS,**
 30 **ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND**
 31 **AGAINST ANY AND ALL CLAIMS FOR, LOSS OF, DAMAGE TO, OR**
 32 **DESTRUCTION OF, PROPERTY OF THE CITY OR OF A THIRD PARTY,**
 33 **ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN**
 34 **CONNECTION WITH THE WORK AND SERVICES TO BE PERFORMED BY THE**
 35 **CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS,**
 36 **LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS**
 37 **INDEMNIFICATION PROVISION IS SPECIFICALLY INTENDED TO OPERATE**
 38 **AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR**
 39 **SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN**
 40 **PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY. THIS**
 41 **INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT**
 42 **LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND**
 43 **LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH**
 44 **CLAIMS AND CAUSES OF ACTIONS.**

45 **Article 7. MISCELLANEOUS**

1 7.1 Capitalized Terms.

2 Unless otherwise provided herein, capitalized terms used in this Agreement which are
 3 defined in Article 1 of the General Conditions will have the meanings indicated in the General
 4 Conditions.

5 7.2 Assignment of Contract.

6 This Agreement, including all of the Contract Documents may not be assigned by the
 7 Contractor without the advance express written consent of the City.

8 7.3 Successors and Assigns.

9 City and Contractor each binds itself, its partners, successors, assigns and legal
 10 representatives to the other party hereto, in respect to all covenants, agreements and
 11 obligations contained in the Contract Documents.

12 7.4 Severability.

13 Any provision or part of the Contract Documents held to be unconstitutional, void or
 14 unenforceable by a court of competent jurisdiction shall be deemed stricken, and all
 15 remaining provisions shall continue to be valid and binding upon City and Contractor.

16 7.5 Venue and Waiver of Sovereign Immunity.

17 This Agreement, including all of the Contract Documents is performable in the State of
 18 Texas. Venue shall be in the state district courts of Denton County, Texas. The City’s
 19 sovereign immunity is waived only to the extent set forth and in accordance with the
 20 provisions of Subchapter I, Chapter 271 of the Texas Local Government Code or as otherwise
 21 specifically waived by law. The City does not waive its sovereign immunity to suit in federal
 22 court.

23 7.6 Authority to Sign.

24 Contractor hereby certifies that the person signing the Agreement on its behalf is the duly
 25 authorized signatory of the Contractor.

26 7.7 Prohibition on Contracts with Companies Boycotting Israel.

27 Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government
 28 Code, the City is prohibited from entering into a contract with a company for goods or
 29 services unless the contract contains a written verification from the company that it: (1) does
 30 not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms
 31 “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section
 32 808.001 of the Texas Government Code. By signing this contract, Contractor certifies that
 33 Contractor’s signature provides written verification to the City that Contractor: (1) does not
 34 boycott Israel; and (2) will not boycott Israel during the term of the contract.

35 7.8 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

1 Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government
 2 Code, City is prohibited from entering into a contract with a company for goods or services
 3 unless the contract contains written verification from the company that it (1) does not boycott
 4 energy companies; and (2) will not boycott energy companies during the term of the contract.
 5 The terms “boycott energy company” and “company” shall have the meanings ascribed to
 6 those terms in Section 809.001 of the Texas Government Code. By signing this agreement,
 7 Contractor certifies that Contractor’s signature provides written verification to the City that
 8 Contractor: (1) does not boycott energy companies; and (2) will not boycott energy
 9 companies during the term of the agreement. Failure to meet or maintain the requirements
 10 under this provision will be considered a material breach.

11 7.9 Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm
 12 Trade Associations.

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

27 7.10 Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign
 28 Terrorist Organization

29 Sections 2252 and 2270 of the Texas Government Code restricts CITY from contracting with
 30 companies that do business with Iran, Sudan, or a foreign terrorist organization. **By signing**
 31 **this agreement, Contractor certifies that Contractor’s signature provides written**
 32 **verification to the City that Contractor, pursuant to Chapters 2252 and 2270, is not**
 33 **ineligible to enter into this agreement and will not become ineligible to receive payments**
 34 **under this agreement by doing business with Iran, Sudan, or a foreign terrorist**
 35 **organization.** Failure to meet or maintain the requirements under this provision will be
 36 considered a material breach.

37 7.11 Termination Right for Contracts with Companies Doing Business with Certain Foreign-
 38 Owned Companies

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

1 7.12 Immigration Nationality Act.

2 Contractor shall verify the identity and employment eligibility of its employees who perform
3 work under this Agreement, including completing the Employment Eligibility Verification
4 Form (I-9). Upon request by City, Contractor shall provide City with copies of all I-9 forms
5 and supporting eligibility documentation for each employee who performs work under this
6 Agreement. Contractor shall adhere to all Federal and State laws as well as establish
7 appropriate procedures and controls so that no services will be performed by any Contractor
8 employee who is not legally eligible to perform such services. **CONTRACTOR SHALL**
9 **INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES,**
10 **LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY**
11 **CONTRACTOR, CONTRACTOR’S EMPLOYEES, SUBCONTRACTORS,**
12 **AGENTS, OR LICENSEES.** City, upon written notice to Contractor, shall have the right
13 to immediately terminate this Agreement for violations of this provision by Contractor.

14 7.13 No Third-Party Beneficiaries.

15 This Agreement gives no rights or benefits to anyone other than the City and the Contractor
16 and there are no third-party beneficiaries.

17 7.14 No Cause of Action Against Engineer.

18 Contractor, its subcontractors and equipment and materials suppliers on the Project or their
19 sureties, shall maintain no direct action against the Engineer, its officers, employees, and
20 subcontractors, for any claim arising out of, in connection with, or resulting from the engineering
21 services performed. Only the City will be the beneficiary of any undertaking by the Engineer.
22 The presence or duties of the Engineer's personnel at a construction site, whether as on-site
23 representatives or otherwise, do not make the Engineer or its personnel in any way
24 responsible to Contractor or any other entity for those duties that belong to the City, and do
25 not relieve Contractor or any other entity of its obligations, duties, and responsibilities,
26 including, but not limited to, all construction methods, means, techniques, sequences, and
27 procedures necessary for performing, coordinating and completing all portions of the Work
28 in accordance with the Contract Documents and any health or safety precautions required by
29 such Work. The Engineer and its personnel have no authority to exercise any control over
30 any construction contractor or other entity or their employees in connection with their work
31 or any health or safety precautions.

32
33
34

SIGNATURE PAGE TO FOLLOW

1 IN WITNESS WHEREOF, City and Contractor have each executed this Agreement to be effective
2 as of the date subscribed by the City's City Manager or his designee ("Effective Date").
3
4

CITY OF DENTON

BY: _____

TITLE: _____

DATE: _____

CONTRACTOR
MOUNTAIN CASCADE OF TEXAS, LLC

Signed by:
BY: Andrew McCulloch
AUTHORIZED AGENT

Andrew McCulloch
NAME

Vice-President
TITLE

817-783-3094
PHONE NUMBER

AMcCulloch@mountaincascade.com
EMAIL ADDRESS

2025-1322658
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

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

Signed by:
Seth Garcia Seth Garcia
SIGNATURE PRINTED NAME

Director of Capital Projects
TITLE

Capital Projects
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

SECTION 00 41 00

BID FORM

TO: City of Denton
c/o: Purchasing Division
901-B Texas Street
Denton, Texas 76209

FOR: *IFB #7968-007 – FM 1515 Utilities Relocation*

1 Enter Into Agreement

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with City in the form included in the Bidding Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2 BIDDER Acknowledgements and Certification

- 2.1 In submitting this Bid, Bidder accepts all of the terms and conditions of the INVITATION TO BIDDERS and INSTRUCTIONS TO BIDDERS, including without limitation those dealing with the disposition of Bid Bond.
- 2.2 Bidder is aware of all costs to provide the required insurance, will do so pending contract award, and will provide a valid insurance certificate meeting all requirements within 14 days of notification of award.
- 2.3 Bidder certifies that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
- 2.4 Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
- 2.5 Bidder has not solicited or induced any individual or entity to refrain from bidding.
- 2.6 Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:
 - a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of City (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive City of the benefits of free and open competition.
 - c. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of City, a purpose of which is to establish Bid prices at artificial, non-competitive levels.
 - d. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

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2.7 The Bidder acknowledges and agrees to comply with the requirements of City Ethics Ordinance No. 23-1165.

3 Time of Completion

3.1 The Work will be complete for Final Acceptance within [300] Days after the date when the Contract Time commences to run, which is the day indicated in the Notice to Proceed, plus any extension thereof allowed in accordance with Article 11 of the General Conditions.

3.2 Bidder accepts the provisions of the Agreement as to Liquidated Damages in the event of failure to obtain Milestones (if applicable) and Final Acceptance within the times specified in the Agreement.

4 Attached to this Bid

The following documents are attached to and made a part of this Bid:

- a. Section 00 35 13 – Conflict of Interest Affidavit
- b. Section 00 41 00 – This Bid Form
- c. **Section 00 42 43 – Unit Price Proposal Form – Electronic Copy (either included in the Bid, or submitted via Ion Wave)**
- d. Section 00 42 13 – Required Bid Bond, issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions
- e. Section 00 43 36 – Proposed Subcontractors Form
- f. ~~Section 00 43 37 – Vendor Compliance to State Law Non Resident Bidder~~
- g. ~~Section 00 45 13 – Bidders Minimum Qualification Statement~~
- h. Section 00 45 26 – Contractor Compliance with Workers Compensation Law
- i. Section 00 45 43 – Corporate Resolution of Authorized Signatories
- j. Any additional documents that may be required by Section 00 21 13 – Instructions to Bidders

1 **5 Total Bid Amount**

2

- 3 5.1 Bidder will complete the Work in accordance with the Contract Documents for the
- 4 following bid amount. In the space provided below, please enter the total bid amount for
- 5 this project. Only this figure will be read publicly by the City at the bid opening.
- 6 5.2 It is understood and agreed by the Bidder in signing this proposal that the total bid amount
- 7 entered below is subject to verification and/or modification by multiplying the unit bid
- 8 prices for each pay item by the respective estimated quantities shown in this proposal and
- 9 then totaling all of the extended amounts.

10

11 Total Bid Amount: \$ 4,750,231.⁰⁰

12

13 **6 Bid Submittal**

14

15 This Bid is submitted on April 23, 2025 by the entity named below.

16

17

18 Respectfully submitted,

19

20 By: 

21

22 (Signature)
23 Andrew L. McCulloch
24 (Printed Name)

25

26 Title: Vice President

27

28 Company: Mountain Cascade of Texas, LLC.

29

30 Address: 5340 E US Hwy 67
31 Alvarado, TX 76009

32 State of Incorporation: Texas

33 Email: amcculloch@mountaincascade.com

34 Phone: 817-783-3094

35

36

END OF SECTION

Receipt is acknowledged of the following Addenda:	Initial
Addenda No. 1:	<u>AM</u>
Addenda No. 2:	<u>AM</u>
Addenda No. 3:	
Addenda No. 4:	
Addenda No. 5:	



SECTION 00 42 43 - UNIT PRICE BID FORM

City of Denton - Capital Projects From: Mountain Cascade of Texas, LLC.

901-B Texas Street
 Denton, TX 76209
 Attn: Purchasing Dept.

5340 E US Hwy 67
 Alvarado, TX 76009
 Andrew L. McCulloch
 817-783-3094
amcculloch@mountaincascade.com

PROJ.: **FM 1515 Utilities Relocation**

IFB: **7968-007**
 ENG: **230011-1**
 PMO:

BIDDERS APPLICATION - UNIT PRICE BID

Item No.	Spec. Section No.	Description	UOM	BID QTY	Unit Price	Extended Price
1	01 57 13	SWPPP	LS	1	\$ 3,000.00	\$ 3,000.00
2	01 58 13	Project Signs	EA	2	\$ 1,000.00	\$ 2,000.00
3	01 70 00	Mobilization	LS	1	\$ 400,000.00	\$ 400,000.00
4	02 41 14	Remove Utility Manhole	EA	4	\$ 2,500.00	\$ 10,000.00
5	02 41 14	Remove Fire Hydrant, Lead Line & Valve	EA	10	\$ 2,200.00	\$ 22,000.00
6	02 41 14	Remove Water Valve	EA	10	\$ 1,500.00	\$ 15,000.00
7	31 10 00	Site Clearing	LS	1	\$ 40,000.00	\$ 40,000.00
8	31 25 14	SWPPP Device Installation	LS	1	\$ 35,000.00	\$ 35,000.00
9	31 25 14	SWPPP Device Removal	LS	1	\$ 3,000.00	\$ 3,000.00
10	32 01 17	Asphalt Pavement Repair for Utility Trench	SY	28	\$ 150.00	\$ 4,200.00
11	32 01 29	Concrete Pavement Repair for Utility Trench	SY	60	\$ 200.00	\$ 12,000.00
12	32 01 29	Concrete Flume Repair	SY	9	\$ 250.00	\$ 2,250.00
13	32 93 00	Seeding Turf Grass	SY	15,907	\$ 3.00	\$ 47,721.00
14	32 93 00	Block Sod	SY	1,767	\$ 11.00	\$ 19,437.00
15	33 05 05	Excavation Protection	LF	7,953	\$ 1.00	\$ 7,953.00
16	33 05 07	Steel Casing by Open Cut (12")	LF	24	\$ 400.00	\$ 9,600.00
17	33 05 07	Steel Casing by Bore (12")	LF	390	\$ 655.00	\$ 255,450.00
18	33 05 07	Steel Casing by Open Cut (18")	LF	173	\$ 420.00	\$ 72,660.00
19	33 05 07	Steel Casing by Bore (18")	LF	83	\$ 760.00	\$ 63,080.00
20	33 05 07	Steel Casing by Open Cut (20")	LF	73	\$ 450.00	\$ 32,850.00
21	33 05 07	Steel Casing by Bore (20")	LF	178	\$ 800.00	\$ 142,400.00
22	33 05 07	Steel Casing by Open Cut (24")	LF	283	\$ 550.00	\$ 155,650.00
23	33 05 07	Steel Casing by Bore (24")	LF	252	\$ 820.00	\$ 206,640.00
24	33 05 15	HDPE Water Main in Casing (8")	LF	414	\$ 100.00	\$ 41,400.00
25	33 05 15	HDPE Water Main in Casing (12")	LF	256	\$ 110.00	\$ 28,160.00
26	33 05 15	HDPE Water Main in Casing (16")	LF	291	\$ 150.00	\$ 43,650.00
27	33 05 15	Sanitary Sewer Gravity Main in Casing (12")	LF	251	\$ 110.00	\$ 27,610.00
28	33 05 15	Sanitary Sewer Gravity Main in Casing (15")	LF	244	\$ 120.00	\$ 29,280.00
29	33 05 61; 33 05 62	Concrete Manhole (5' ID) (0'-6' Deep)	EA	4	\$ 19,000.00	\$ 76,000.00
30	33 05 61; 33 05 62	Extra Concrete Manhole Depth	VF	23	\$ 800.00	\$ 18,400.00
31	33 05 61; 33 05 62	External Drop for Manhole	EA	1	\$ 14,000.00	\$ 14,000.00
32	33 05 64	Double Detector Check Valve Vault	EA	1	\$ 60,000.00	\$ 60,000.00
33	33 05 76	Fiberglass Manhole (5' ID)	EA	2	\$ 40,000.00	\$ 80,000.00
34	33 05 76	Extra Fiberglass Manhole Depth	VF	34	\$ 900.00	\$ 30,600.00
35	33 05 98	Locate Existing Utilities	LS	1	\$ 60,000.00	\$ 60,000.00
36	33 14 11	PVC Water Main (8")	LF	45	\$ 250.00	\$ 11,250.00
37	33 14 11	PVC Water Main (12")	LF	55	\$ 300.00	\$ 16,500.00
38	33 14 14	HDPE Water Main (8")	LF	115	\$ 260.00	\$ 29,900.00
39	33 14 14	HDPE Water Main (12")	LF	83	\$ 310.00	\$ 25,730.00
40	33 14 14	HDPE Water Main (16")	LF	6,825	\$ 260.00	\$ 1,774,500.00
41	33 14 17	Water Service Connection (2")	EA	2	\$ 7,000.00	\$ 14,000.00
42	33 14 20	Gate Valve (8")	EA	3	\$ 8,000.00	\$ 24,000.00
43	33 14 20	Gate Valve (12")	EA	3	\$ 10,000.00	\$ 30,000.00
44	33 14 20	Gate Valve (16")	EA	12	\$ 21,000.00	\$ 252,000.00
45	33 14 25	Connection to Existing Main (8")	EA	6	\$ 23,000.00	\$ 138,000.00
46	33 14 25	Connection to Existing Main (12")	EA	2	\$ 24,000.00	\$ 48,000.00
47	33 14 25	Connection to Existing Main (16")	EA	2	\$ 28,000.00	\$ 56,000.00

Item No.	Spec. Section No.	Description	UOM	BID QTY	Unit Price	Extended Price
48	33 14 25	City Performed Tapping Sleeve and Valve Connection (12" x 12")	EA	1	\$ 18,000.00	\$ 18,000.00
49	33 14 40	Fire Hydrant Assembly	EA	8	\$ 16,000.00	\$ 128,000.00
50	33 31 14	Sanitary Sewer Gravity Main (12")	LF	101	\$ 300.00	\$ 30,300.00
51	33 31 14	Sanitary Sewer Gravity Main (15")	LF	176	\$ 310.00	\$ 54,560.00
52	TXDOT 7216	Insertion Valve (8")	EA	2	\$ 1,500.00	\$ 3,000.00
53	34 71 13	Traffic Control Devices	MO	9	\$ 2,500.00	\$ 22,500.00
54	34 71 13	Traffic Control Plan	EA	3	\$ 1,000.00	\$ 3,000.00

TOTAL PROJECT BID AMOUNT: \$ 4,750,231.00

FM 1515 Utilities Relocation

Mountain Cascade of Texas, LLC.

"General Decision Number: TX20250018 01/03/2025

Superseded General Decision Number: TX20240018

State: Texas

Construction Type: Heavy

Counties: Collin, Dallas, Denton, Ellis, Kaufman and Rockwall
Counties in Texas.

Water and Sewer Lines/Utilities (Including Related Tunneling
Where the Tunnel is 48" or Less in Diameter)

Note: Contracts subject to the Davis-Bacon Act are generally
required to pay at least the applicable minimum wage rate
required under Executive Order 14026 or Executive Order 13658.
Please note that these Executive Orders apply to covered
contracts entered into by the federal government that are
subject to the Davis-Bacon Act itself, but do not apply to
contracts subject only to the Davis-Bacon Related Acts,
including those set forth at 29 CFR 5.1(a)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date

0 01/03/2025

PLUM0100-002 11/01/2024

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 39.76	14.04

SUTX1991-004 09/23/1991

	Rates	Fringes
Laborers:		
Common.....	\$ 7.25 **	
Utility.....	\$ 7.467 **	
Pipelayer.....	\$ 7.828 **	
Power equipment operators:		
Backhoe.....	\$ 10.804 **	
Crane.....	\$ 10.942 **	
Front End Loader.....	\$ 9.163 **	
Tunneling Machine (48" or less).....	\$ 9.163 **	
TRUCK DRIVER.....	\$ 8.528 **	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====
** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date

for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

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Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

=====

END OF GENERAL DECISION"

"General Decision Number: TX20250025 01/03/2025

Superseded General Decision Number: TX20240025

State: Texas

Construction Type: Highway

Counties: Archer, Callahan, Clay, Collin, Dallas, Delta, Denton, Ellis, Grayson, Hunt, Johnson, Jones, Kaufman, Parker, Rockwall, Tarrant and Wise Counties in Texas.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
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The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

Servicer.....\$ 14.58 **

Steel Worker (Reinforcing).....\$ 16.18 **

TRUCK DRIVER

Lowboy-Float.....\$ 16.24 **

Off Road Hauler.....\$ 12.25 **

Single Axle.....\$ 12.31 **

Single or Tandem Axle Dump

Truck.....\$ 12.62 **

Tandem Axle Tractor with

Semi Trailer.....\$ 12.86 **

Transit-Mix.....\$ 14.14 **

WELDER.....\$ 14.84 **

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====
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200 Constitution Avenue, N.W.
Washington, DC 20210.

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END OF GENERAL DECISION"

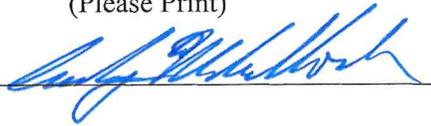
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SECTION 00 45 26

CONTRACTOR COMPLIANCE WITH WORKER'S COMPENSATION LAW

Pursuant to Texas Labor Code Section 406.096(a), as amended, Contractor certifies that it provides worker's compensation insurance coverage for all of its employees employed on *FM 1515 Utilities Relocation*. Contractor further certifies that, pursuant to Texas Labor Code, Section 406.096(b), as amended, it will provide to City its subcontractor's certificates of compliance with worker's compensation coverage.

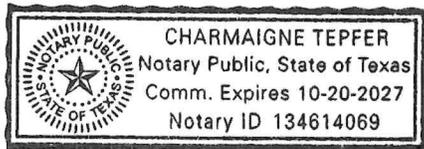
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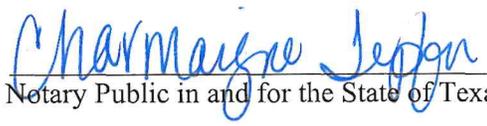
Mountain Cascade of Texas, LLC. By: Andrew L. McCulloch
Company (Please Print)
5340 E US Hwy 67 Signature: 
Address
Alvarado, TX 76009 Title: Vice President
City/State/Zip (Please Print)

THE STATE OF TEXAS §
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared Andrew L. McCulloch, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act and deed of Mountain Cascade of Texas, LLC. for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of April, 2025.




Notary Public in and for the State of Texas

END OF SECTION

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

**STANDARD GENERAL CONDITIONS
 OF THE CONSTRUCTION CONTRACT
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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY**1.01 *Defined Terms***

- A. Wherever used in the Contract or in other Contract Documents, the terms listed below have the meanings indicated which are applicable to both the singular and plural thereof, and words denoting gender shall include the masculine, feminine and neuter. When used in a context consistent with the definition of a listed-defined term, the term shall have a meaning as defined below whether capitalized or italicized or otherwise. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument titled “Agreement”, “Agreement – CSP”, or “Agreement – Unit Price Bid” executed by the City and Contractor for the Work, setting forth the name of the Project, Contract Price, Contract Time and the items included in the Contract.
 3. *Application for Payment*—The form acceptable to City which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Award*—Authorization by the City Council for the City to enter into an Agreement.
 6. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. The term “Bid” shall be defined to include the term “Proposal” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 7. *Bidder*—The individual or entity that submits a Bid directly to City. The term “Bidder” shall be defined to include the terms “Proposer” or “Offeror” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 8. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda). The term “Bidding Documents” shall be defined to include the terms “Proposal Documents” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid.
 9. *Bidding Requirements*—The Advertisement or Invitation to Bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments. The term “Bidding Requirements” shall be defined to include the terms “Proposal Requirements” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid and will include the Request for Proposal or Invitation to Offerors, Instructions to Offerors, Offerors Bond or other Proposal security, if any, the Proposal Form, and the Proposal with any attachments.

10. *Business Day*—A day that the City conducts normal business, generally Monday through Friday, except for federal or state holidays observed by the City.
11. *Calendar Day*—A day consisting of 24 hours measured from midnight to the next midnight.
12. *Change Order*—A document which is prepared by the Contractor or City, approved by the City, and signed by Contractor and City, authorizing an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.
13. *City*—The City of Denton is, a Texas home-rule municipal corporation acting by its City Council through its City Manager or his or her designee.
14. *City Attorney*—The officially appointed City Attorney of the City of Denton or his or her designee.
15. *City Council*—The duly elected and qualified governing body of the City of Denton.
16. *City Manager*—The officially appointed authorized City Manager of the City of Denton.
17. *Contract*—The entire and integrated set of written instruments between the City and Contractor concerning the Work comprised of the Agreement and all Contract Documents, which written instruments supersede all prior negotiations, representations, or agreements, whether written or oral, concerning the Work.
18. *Contract Claim*—A demand or assertion by City or Contractor seeking an adjustment of Contract Price or Contract Time, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Contract Claim.
19. *Contract Documents*—Those items so designated as “Contract Documents.” in the Agreement at Paragraph 5.1.A. Approved Submittals, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
20. *Contract Price*—The moneys payable by City to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 12.03 in the case of Unit Price Work). The Contract Price does not include any “Incentive”, if applicable.
21. *Contract Time*—The number of days or the dates stated in the Agreement to: (a) achieve Milestones, if any and (bb) complete the Work so that it is ready for Final Acceptance.
22. *Contractor*—The individual or entity with whom City has entered into the Agreement.
23. *Cost of the Work*—See Paragraph 12.01 of these General Conditions for definition.
24. *Damage Claims*—A demand for money or services arising from the Project or Site from a third party, City or Contractor exclusive of a Contract Claim.
25. *Day or day*—A day, unless otherwise defined, shall mean a Calendar Day.
26. *Drawings*—The part of the Contract Documents prepared or approved by an Engineer that graphically shows the scope, extent, and character of the Work to be performed by Contractor. Submittals, as defined, are not considered Drawings as so defined here.

27. *Effective Date of the Agreement*—The date, indicated in the Agreement, on which it becomes effective,, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the City.
28. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, text, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
29. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by the Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
30. *Engineer*—The licensed professional engineer or engineering firm registered in the State of Texas performing professional services for the City.
31. *Extra Work*—Additional work made necessary by City-approved changes or alterations to the Contract Documents. Extra Work shall be part of the Work.
32. *Field Order*—A written directive issued by City that requires changes in the Work but does not involve a change to the Contract Price, Contract Time, or Drawings, Plan, or Shop Drawings.
33. *Final Acceptance*—The written notice given by the City to the Contractor that the Work specified in the Contract Documents has been completed to the satisfaction of the City.
34. *Final Inspection*—The inspection performed by the City to determine whether the Contractor has completed each and every part or appurtenance of the Work fully, entirely, and in conformance with the Contract Documents.
35. *General Requirements*—Sections of The information set forth in “Division 101 – General Requirements” of the Standard Construction Specification Documents.
36. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, P C B s , Petroleum, Hazardous Waste, Radioactive Material, or any other substance, product, waste or materials, in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
37. *Hazardous Waste*—Any solid waste listed as hazardous or which possesses one or more hazardous characteristics as defined in applicable Laws and Regulations.
38. *Incidental or incidental*—Work items that the Contractor is not paid for directly, but costs for which are included under the various bid items of the Project.
39. *Laws and Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all

governmental bodies, agencies, authorities, and courts having jurisdiction over the Site or any portion or part of the Work to be performed.

40. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
41. *Major Item*—An item of work included in the Contract Documents that has a total cost equal to or greater than 5% of the original Contract Price.
42. *Milestone*—A principal event specified in the Contract Documents relating to the performance of an identified portion of the Work by an intermediate Contract Time prior to Final Acceptance of the Work.
43. *Notice of Award*—The written notice by City to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed in such notice, City will sign and deliver the Agreement.
44. *Notice to Proceed*—A written notice given by City to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform the Work specified in Contract Documents.
45. *PCBs*—Polychlorinated biphenyls.
46. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), and including but not limited to oil, fuel oil, oil sludge, oil refuse, gasoline, diesel fuel, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
47. *Plans*—This term will have the same definition of as “Drawings”.
48. *Project* —The Work to be performed under the Contract.
49. *Project Manager*—The authorized representative of the City who will be assigned to the Project.
50. *Project Manual*—The documentary information prepared for bidding or proposing and furnishing the Work.
51. *Project Schedule*—A schedule, prepared and maintained by Contractor, in accordance with the General Requirements, describing the sequence and duration of the activities comprising Contractor’s plan to achieve each Milestone and accomplish the Work within the Contract Time.
52. *Public Meeting*—An announced meeting conducted by the City to facilitate public participation and to assist the public in gaining an informed view of the Project.
53. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
54. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.

55. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
56. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
57. *Site*—Lands or areas indicated in the Contract Documents as being furnished by City upon which the Work is to be performed, including rights-of-way, permits, and easements for access thereto, and such other lands furnished by City which are designated for the use of Contractor.
58. *Specifications or Technical Specifications* —The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work. Specifications may be specifically made a part of the Contract Documents by attachment or, if not attached, may be incorporated by reference as indicated in the Table of Contents (Section 00 00 00) of the Project.
59. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
60. *Submittal*—All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to the City to illustrate some portion of the Work.
61. *Subsidiary or subsidiary*—*These terms will have the same* definition as “Incidental. or incidental”.
62. *Successful Bidder*—The Bidder to whom City issues a Notice of Award. The term “Bidder” shall be defined to include the terms “Proposer” or “Offeror” in those instances where the City utilizes a Request for Proposal rather than an Invitation for Bid and is the Proposer or Offeror submitting the proposal or offer that provides the best value to the City and to whom the City issues a Notice of Award.
63. *Superintendent*—The representative of the Contractor who is available at all times and able to receive instructions from the City and to act for the Contractor.
64. *Supplementary Conditions*—The part of the Contract set forth at Division 00 73 00 that amends or supplements these General Conditions.
65. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
66. *Underground Facilities*—All underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid

petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

67. *Unit Price Work*—Work for which the Contract Price is determined by multiplying the unit price for the item by the estimated quantity of the item.
68. *Weekend Working Hours*—Those hours between 8:00 a.m. and 8:30 p.m. on Saturday, and between 1:00 p.m. and 8:30 p.m. on Sunday or on a federal or state holiday observed by the City, as approved in advance by the City for performing Work.
69. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction including any Change Order or Field Order, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
70. *Working Day*—Defined as a Business Day but excluding any days that weather or other conditions beyond the reasonable control of the Contractor prevents the performance of the principal unit of work underway for a continuous period of not less than 7 hours between 7:00 a.m. and 8:00 p.m.

1.02 *Terminology*

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract includes the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of judgment by CityCity. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of City as to the Work. It is intended that such exercise of judgment, action, or determination will be to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise).
- C. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 1. does not conform to the Contract Documents; or
 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 3. has been damaged prior to City’s written notice of Final Acceptance.
- D. *Furnish, Install, Perform, Provide*
 1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to execute, carry out, furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- E. Unless stated otherwise in the Contract, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. Performance and Payment Bonds: When Contractor delivers the signed counterparts of the Agreement to City, Contractor shall also deliver to City the performance bond, payment bond and maintenance bond that comply with the provisions of Chapter 2253 of the Texas Government Code. Work will not be allowed to begin until the performance and payment bonds have been provided by the Contractor to the City.
- B. Evidence of Contractor’s Insurance: When Contractor delivers the signed counterparts of the Agreement to City, Contractor shall also deliver to City, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6. Work will not be allowed to begin until the evidence of insurance has been provided by the Contractor to the City.

2.02 *Copies of Documents*

- A. City shall furnish to Contractor one (1) original executed copy and one (1) electronic copy of the Contract, and three (3) additional copies of the Drawings. Additional printed copies will be furnished upon request at the cost of reproduction.

2.03 *Before Starting Construction*

Baseline starting Work, Contractor shall submit for review by City the following in accordance with the Contract Documents:

- A. Baseline Schedules in accordance with General Requirements, Section 01 32 16.
- B. Preliminary Schedule of Submittals.
- C. Preliminary Schedule of Values: For lump sum contracts, a Schedule of Values for all of the Work that includes quantities and prices of items that when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Meeting*

- A. Before any Work at the Site is started, the Contractor shall attend a Preconstruction Meeting as specified in Section 01 31 19.

2.05 *Public Meeting*

- A. Contractor may not mobilize any equipment, materials, or resources to the Site prior to Contractor attending the Public Meeting as scheduled by the City.

2.06 *Initial Acceptance of Schedules*

- A. No progress payment shall be made to Contractor until acceptable Project Schedules are submitted to City in accordance with the Contract Documents.

2.07 *Electronic Submittals and Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the City and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then City and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to City.
- C. City will issue clarifications and interpretations of the Contract Documents as provided herein.
- D. The Specifications may vary in form, forma and style. Some Specification sections may be written in varying degrees of streamlined or declarative style, and some sections may be relatively narrative by comparison. Omission of such words and phrases as “the Contractor shall,” “in conformity with,” “as shown,” or “as specified” are intentional in streamlined sections. Omitted words and phrases shall be supplied by inference. Similar types of provisions may appear in various parts of a section or articles within a part depending on the format of the section. The Contractor shall not take advantage of any variation of form, format or style in making Contract Claims or Damage Claims.

- E. The cross-referencing of Specification sections under the subparagraph heading “Related Sections include but are not necessarily limited to:” and elsewhere within each Specification section is provided as an aid and convenience to the Contractor. The Contractor shall not rely on the cross-referencing provided and shall be responsible to coordinate the entire Work under the Contract Documents and provide a complete Project whether or not cross-referencing is provided in each section or whether the cross-referencing is complete or accurate.

3.02 *Reference Standards*

A. Standards Specifications, Codes, Laws and Regulations

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of City, Contractor, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign to City or any of its officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. Reporting Discrepancies

1. *Contractor’s Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements, and conditions. Contractor shall promptly report in writing to City any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from City before proceeding with any Work affected thereby.
2. *Contractor’s Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to City in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.1717) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by City, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to City for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. Resolving Discrepancies

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier; or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).
2. In case of discrepancies, figured dimensions shall govern over scaled dimensions, Drawings shall govern over Specifications, and Supplementary Conditions shall govern over General Conditions and Specifications.

3.04 Requirements of the Contract Documents

- A. During the performance of the Work and until final payment, Contractor shall submit to the City in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. City will be the interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. City will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. City's written clarification, interpretation, or decision will be final and binding on Contractor, unless Contractor appeals by filing a Contract Claim.

3.05 Reuse of Documents

- A. Contractor and its Subcontractors and Suppliers shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of CityCity and specific written verification or adaptation by Engineer; or
 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without City's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK**4.01** *Commencement of Contract Time; Notice to Proceed*

- A. The Contract Time will commence to run on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Time commences to run. No Work may be done at the Site prior to the date on which the Contract Time commences to run.

4.03 *Delays in Contractor's Progress*

- A. If Contractor is delayed, City shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project. The City shall be liable only to the extent allowed by the provisions of the Contract and as allowed by Subchapter I, Chapter 271 of the Texas Local Government Code.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Time for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. The Contractor shall receive no compensation for delays or hindrances to the Work, except when direct and unavoidable extra cost to the Contractor is caused by the failure of the City to provide information or material, if any, that the Contract specifies is to be furnished by the City.
- D. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of City, Contractor, and those for whom they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Time. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this Paragraph 4.03. D. The Contractor is responsible for the prompt submission of a request for an adjustment to the Contract Time under this Paragraph to the City. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Time under this Paragraph include but are not limited to the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with City, as contemplated in Article 8); and

4. Acts of war or terrorism.
- E. Contractor's entitlement to an adjustment of Contract Time or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Time is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Time to which Contractor is otherwise entitled.
 3. Adjustments of Contract Time or Contract Price are subject to the provisions of Article 11.
- F. Each Contractor request or Change Order seeking an increase in Contract Time or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Time claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.08.
 6. Contractor shall also furnish such additional supporting documentation as City may require including, where appropriate, a revised Project Schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- G. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from undisclosed Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.03.F and 4.03.G.

ARTICLE 5 – SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. City shall furnish the Site. City shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which

Contractor must comply in performing the Work. City will be responsible for obtaining any necessary easements for permanent structures or permanent changes in existing facilities.

1. The City has obtained or anticipates acquisition of and/or access to right-of-way, and/or easements. Any outstanding right-of-way and/or easements are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding right-of-way, and/or easements.
 2. Unless otherwise specified in the Contract Documents, the City has or anticipates moving and/or relocating utilities, and obstructions to the Site. Any outstanding movement or relocation of utilities or obstructions is anticipated in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding utilities or obstructions to be moved and/or relocated by others.
- B. Upon reasonable written request of Contractor, City shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which the Work is to be performed.
- C. Contractor shall provide for any additional lands and access thereto not included in the Site that may be required for construction facilities or storage of materials and equipment. The cost of such shall be part of the Contract Price.

5.02 *Use of Site and Other Areas*

- A. Limitation on Use of Site and Other Areas
1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, worker car parking and the operations of workers to the Site, to adjacent areas that Contractor has arranged to use through construction easements or otherwise, and to other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with worker car parking, construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries, including death, and damage to or losses of property sustained by the owners or occupants of any such land or areas; provided that such damage, losses, injuries or deaths arose out of or result from the performance of the Work or arose out of or resulted from any other actions or conduct of the Contractor or those for whom Contractor is responsible.
 2. At any time when, in the judgment of the City, the Contractor has obstructed, closed, or is carrying on operations in a portion of a street, right-of-way, or easement greater than is necessary for proper execution of the Work, the City may require the Contractor to reduce the area impacted to only that necessary for proper execution of the Work and/or to finish the section on which operations are in progress before work is commenced on any additional area of the Site.

3. Construction equipment, spoil materials, supplies, forms, buildings, labs, or equipment and supply storage buildings, or any other item that may be transported by flood flows, shall not be stored within existing federal floodways during the course of the Work.
 4. Should any Damage Claim be made by any such owner or occupant adversely impacted because of the performance of the Work, Contractor shall promptly attempt to resolve the Damage Claim.
 5. ***PURSUANT TO PARAGRAPH 7.21, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES ARISING OUT OF OR RELATING TO ANY CLAIM OR ACTION, LEGAL OR EQUITABLE, BROUGHT BY ANY SUCH ADVERSELY IMPACTED OWNER OR OCCUPANT AGAINST CITY.***
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Site Maintenance Cleaning:* If 24 hours after written notice is given to the Contractor that the clean-up at the Site is insufficient or occurring in a manner unsatisfactory to the City, the Contractor fails to correct the unsatisfactory condition and/or procedures, the City may take such direct action as the City deems appropriate to correct the clean-up deficiencies cited to the Contractor in the written notice, and the costs of such direct corrective action, plus 25 % of such costs, shall be deducted from the monies due or to become due to the Contractor under the Contract.
- D. *Final Site Cleaning:* Prior to Final Acceptance of the Work, Contractor shall clean the Site and the Work and make it ready for utilization by City and any adjacent property owners, if applicable. At the completion of the Work, Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, surplus materials, waste materials, rubbish and other debris and shall restore to original condition or better all areas impacted or disturbed by the Work.
- E. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. Those reports known to City of explorations and tests of subsurface conditions at or contiguous to the Site; and
 2. Those drawings known to City of existing physical conditions at or contiguous to the Site, including those drawings known to City depicting existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities.).
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A.

Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as technical data.

- C. *Reliance by Contractor on Technical Data:* Contractor is provided certain technical data identified in the Supplementary Conditions with respect to such reports and drawings for its use, but the City does not warrant or guarantee the accuracy of the information, and such information including reports and drawings are not Contract Documents. Contractor may not make any Contract Claim against City, or any of their officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness or accuracy of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or City's archival documents concerning the Site; or
 4. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any "technical data" is materially inaccurate; or
 2. is of such a nature as to require a change in the Contract Documents; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.17), notify City in writing about such condition.

- B. *Possible Price and Time Adjustments*
1. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Time if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a final commitment to City with respect to Contract Price and Contract Time by the submission of a Bid or becoming bound under the Contract; or

- b. The existence of such condition reasonably could have been discovered or revealed as a result of the examination of the Contract Documents or the Site; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
- C. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site is based on information and data furnished to City or Engineer by the owners of such Underground Facilities, including City, or by others, unless it is otherwise expressly provided in the Supplementary Conditions::
- 1. City and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data;
 - b. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 - c. coordination and adjustment of the Work with the owners (including City) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Not Shown or Indicated:*
- 1. If an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings or otherwise indicated in the Contract Documents, or was not shown or indicated on the Drawings or in the Contract Documents with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.17), identify the owner of such Underground Facility and give notice to that owner and to City. Contractor shall be responsible for the safety and protection of such discovered Underground Facility.
 - 2. If City concludes that a change in the Contract Documents is required, a Change Order may be issued to reflect and document such consequences, subject to the provisions of Article 11.
 - 3. Verification of existing utilities, structures, and service lines shall include notification of all utility companies a minimum of 48 hours in advance of construction including exploratory excavation if necessary.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
1. those reports known to City relating to Hazardous Environmental Conditions that have been identified at the Site; or
 2. drawings known to City relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Reliance by Contractor on Technical Data*: Contractor is provided certain technical data identified in the Supplementary Conditions with respect to such reports and drawings for its use, but the City does not warrant or guarantee the accuracy of the information, and such information including reports and drawings are not Contract Documents. Contractor may not make any Contract Claim against City, or any of its officers, elected or appointed officials, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness or accuracy of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or City's archival documents concerning the Site; or
 4. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.
- C. Contractor shall not be responsible for a Hazardous Environmental Condition uncovered or revealed at the Site if such Hazardous Environmental Condition was not shown or indicated in Drawings or Specifications or identified if the removal or remediation of such Hazardous Environmental Condition was not identified in the Contract Documents to be within the scope of the Work. Contractor shall be responsible for a Hazardous Environmental Condition created by the actions of or with any materials brought to the Site by Contractor, Subcontractors, Suppliers or anyone else for whom Contractor is responsible and the costs associated with the same.
- D. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.17); and (3) notify City (and promptly thereafter confirm such notice in writing). City may consider the necessity to retain a qualified expert to evaluate such condition or take corrective action, if any.

- E. Contractor shall not be required to resume Work in connection with a Hazardous Environmental Condition identified pursuant to Paragraph 5.06.D or in any affected area until after City has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed.
- F. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then City may order the portion of the Work that is in the area affected by such condition to be deleted from the Work and the Contract Price. City may have such deleted portion of the Work performed by City's own forces or others.
- G. ***TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY, AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS, AND SUBCONTRACTORS OF EACH AND ANY OF THEM, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE ARISING OUT OF OR RELATING TO A HAZARDOUS ENVIRONMENTAL CONDITION CREATED BY CONTRACTOR OR BY ANYONE FOR WHOM CONTRACTOR IS RESPONSIBLE. NOTHING IN THIS PARAGRAPH 5.06.CityG OBLIGATES CONTRACTOR TO INDEMNIFY ANY INDIVIDUAL OR ENTITY FROM AND AGAINST THE CONSEQUENCES OF THAT INDIVIDUAL'S OR ENTITY'S OWN NEGLIGENCE.***
- H. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue bonds or insurance policies for the limits and coverages required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

6.02 *Performance, Payment, and Maintenance Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, in accordance with the provisions of the Texas Government Code Chapter 2253 or successor statute and as required by the City, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. The performance and payment bonds must be provided by the Contractor to the City prior to the Contractor beginning any Work.

- B. Contractor shall furnish maintenance bonds in an amount equal to the Contract Price as security to protect the City against any defects in any portion of the Work described in the Contract Documents. Maintenance bonds shall remain in effect for two (2) years after the date of Final Acceptance by the City. The maintenance bond(s) shall be provided as directed by the City as part of the close-out of the Contract and shall be provided prior to the final payment being made.
- C. All bonds shall be in the form prescribed by the Contract Documents, except as provided otherwise by Laws and Regulations, and must be issued and signed by a surety named in “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual’s authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, or its right to do business is terminated in the State of Texas, then Contractor shall promptly notify City in writing and shall, within 30 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, City may refuse to allow the Contractor to begin Work, exclude the Contractor from the Site and exercise City’s termination rights under Article 15.
- F. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.03 *Certificates of Insurance*

- A. Contractor shall deliver to City, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance and endorsements (and other evidence of insurance requested by City or any other additional insured) establishing that Contractor has obtained and is maintaining the policies and coverages required by these General Conditions and the Supplementary Conditions prior to beginning any Work.
 - 1. The certificate of insurance shall document the City, and all identified entities named in the Supplementary Conditions as “additional insureds” on all liability policies.
 - 2. The Contractor’s general liability insurance shall include a “per project” or “per location” endorsement, that shall be identified in the certificate of insurance provided to the City.
 - 3. The certificate shall be signed by an agent authorized to bind coverage on behalf of the insured, be complete in its entirety, and show complete insurance carrier names as listed in the current A.M. Best Property & Casualty Guide.
 - 4. The insurers for all policies must be licensed and/or approved to do business in the State of Texas. Except for workers’ compensation, all insurers must have a minimum rating of A-: VII in the current A. M. Best Key Rating Guide or have reasonably equivalent

financial strength and solvency to the satisfaction City. If the rating is below that required, written approval of City is required.

5. All applicable policies shall include a Waiver of Subrogation (Rights of Recovery) in favor of the City. In addition, the Contractor agrees to waive all rights of subrogation against the Engineer (if applicable), and each additional insured identified in the Supplementary Conditions
6. Failure of the City to demand such certificates or other evidence of full compliance with the insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such lines of insurance coverage or to provide such certificates or other evidence of full compliance with the insurance requirements.
7. If insurance policies are not written for specified coverage limits, an Umbrella or Excess Liability insurance for any differences is required. Excess Liability shall follow form of the primary coverage.
8. Unless otherwise stated, all required insurance shall be written on the "occurrence basis". If If City agrees in writing that coverage is underwritten may be written on a claims-made basis, the retroactive date shall be coincident with or prior to the date of the effective date of the Agreement and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. The insurance coverage shall be maintained for the duration of the Contract and for three (3) years following Final Acceptance or for the warranty period provided for under the Contract Documents or for the warranty period, whichever is longer. An annual certificate of insurance submitted to the City shall evidence such insurance coverage.
9. Policies shall have no exclusions by endorsements that either nullify or amend the required lines of coverage, nor or decrease the limits of said coverage unless such endorsements are approved in writing by the City. In the event a Notice of an Award has been issued or the Agreement executed, and the policy exclusions are determined to be unacceptable or the City desires that the Contractor obtain additional insurance coverage the contract price shall be adjusted by the cost of the premium for such additional coverage plus 10%.
10. For any proposed self-insured retention (SIR,) in excess of \$25,000.00, affecting insurance coverage, Contractor must obtain the written approval of the City in regard to asset value and stockholders' equity. In lieu of traditional insurance, proposed alternative coverage maintained through insurance pools or, risk retention groups, or self-funding will also require the written approval of the City.
11. Any deductible in excess of \$5,000.00, for any policy that does not provide coverage on a first-dollar basis must be acceptable to and approved in writing by the City.
12. City, at its sole discretion, reserves the right to review the insurance requirements and to make reasonable adjustments to insurance coverages and limits when deemed necessary and prudent by the City based upon the scope of the Work, changes in statutory law, court decision or the claims history of the industry as well as of the contracting party to the City. The City will provide prior notice of 90 days and the insurance adjustments shall be incorporated into the Work by Change Order.

13. City shall be entitled, upon written request to Contractor and without expense to City, to receive copies of policies and endorsements thereto and. City may make any reasonable requests for deletion or revision or modifications of particular policy terms, conditions, limitations, or exclusions necessary to conform the policy and endorsements to the requirements of the Contract. Deletions, revisions, or modifications shall not be required where policy provisions are established by law or regulations binding upon either party or the underwriter on any such policies.
14. City shall not be responsible for the direct payment of insurance premium costs for Contractor's insurance.

6.04 *Contractor's Insurance*

- A. *Workers Compensation and Employers' Liability:* Contractor shall purchase and maintain such insurance coverage with limits consistent with statutory benefits outlined in the Texas Workers' Compensation Act (Texas Labor Code, Ch. 406, as amended), and minimum limits for Employers' Liability as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:
 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
 2. claims for damages because of bodily injury, occupational sickness or disease, or death of employees.
- B. *Commercial General Liability.* Coverage shall include but not be limited to covering liability (bodily injury, including death, or property damage) arising from: premises/operations, independent contractors, products/completed operations, personal injury including death, liability under an insured contract, and explosion/collapse/underground (where those exposures exist). Insurance shall be provided on an occurrence basis, and as comprehensive as the current Insurance Services Office (ISO) policy. 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 policy shall have no exclusions by endorsements that would alter or nullify premises/operations, products/completed operations, contractual, personal injury, or advertising injury, that are normally contained with the policy, unless the City approves such exclusions in writing.

For construction projects that present a substantial completed operation exposure, the City may require the Contractor to maintain completed operations coverage for a minimum of no less than three (3) years following the completion of the project (if identified in the Supplementary Conditions)).
- C. *Automobile Liability.* A commercial business auto policy shall provide coverage on "any auto", defined as autos owned, hired and non-owned and provide indemnity for claims for damages because of bodily injury or death of any person and/or property damage arising out of or related to the work, maintenance or use of any motor vehicle by the Contractor, any

Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.

- D. *Railroad Protective Liability.* If any of the Work or any warranty work is within the limits of railroad right-of-way, the Contractor shall comply with the requirements identified in the Supplementary Conditions.
- E. *Notification of Policy Cancellation:* Contractor shall immediately notify City upon cancellation or other loss of insurance coverage. Contractor shall stop Work until replacement insurance has been procured. There shall be no time credit for delays or days not worked pursuant to this section.

6.05 *Acceptance of Bonds and Insurance; Option to Replace*

- A. If City has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the Contractor in accordance with Article 6 or the Supplementary Conditions on the basis of non-conformance with the Contract Documents, the City shall so notify the Contractor in writing within 10 Business Days after receipt of the certificates (or other evidence requested). Contractor shall provide to the City such additional information in respect of insurance provided as the City may reasonably request. If Contractor does not purchase or maintain all of the bonds and insurance required by the Contract Documents, the City shall notify the Contractor in writing of such failure prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Such failure to provide bonds or insurance as required by the Contract Documents is a breach of the terms of the Contract and the City may terminate the Contractor in accordance with the provisions of the Contract Documents.

ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

7.01 *Contractor’s Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor’s responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor’s expense. Such services are not City-delegated professional design services under this Contract, and neither City nor Engineer has any responsibility with respect to (1) Contractor’s determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall identify and assign a competent superintendent, who is proficient in English, and who shall not be replaced without written

notice to City of the name of the replacement superintendent. If at any time the superintendent is not satisfactory to the City, Contractor shall, if requested by City, replace the superintendent with another satisfactory to City.

- C. Contractor shall notify the City 24 hours prior to moving areas during the sequence of construction.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to City for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours on Business Days. Contractor will not permit the performance of Work outside of regular working hours on Business Days without City's prior written consent (which will not be unreasonably withheld)). Contractor's written request (by letter or electronic communication) for City's written consent must be made as follows:
 - 1. for Work beyond regular working hours on Business Days, request must be made by noon at least two (2) Business Days prior;
 - 2. for Work during Weekend Working Hours, request must be made by noon of the preceding Wednesday; and
 - 3. for Work on state or federal holidays observed by the City, request must be made sufficiently in advance of the holiday, to satisfy requirements for City Council approval.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, Contractor required testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of sufficient quality to complete the Work, and must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of City. If required by City, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment to be incorporated into the Work shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with

instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

- D. All items of standard equipment to be incorporated into the Work shall be the latest model at the time of bid, unless otherwise specified.

7.05 *Project Schedule*

- A. Contractor shall adhere to the Project Schedule established in accordance with Paragraph 2.06 and the General Requirements as it may be adjusted from time to time as provided below.
1. Contractor shall submit to the City for acceptance (to the extent indicated in Paragraph 2.06 and the General Requirements) proposed adjustments in the Project Schedule that will not result in changing the Contract Time. Such adjustments must comply with any provisions of the General Requirements applicable thereto.
 2. Contractor shall submit to City a monthly Project Schedule with a monthly progress payment request for the duration of the Contract in accordance with the Construction Progress Schedule, General Requirements 01 32 16.
 3. Proposed adjustments in the Project Schedule that will change the Contract Time shall be submitted in accordance with the requirements of Article 11. Adjustments in Contract Time may only be made by a Change Order.

7.06 *“Or Equals”*

- A. *Contractor’s Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that City permit the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
1. If City in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by City as an “or equal” item. For the purposes of this Paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. the City determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to City.

- b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the City or increase in Contract Time; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *City's Evaluation and Determination:* City will be allowed a reasonable time to evaluate each "or-equal" request. City may require Contractor to furnish additional data about the proposed "or-equal" item. City will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until City's review is complete and City determines that the proposed item is an "or-equal." City." City will advise Contractor in writing of its determination.
- D. *Effect of City's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The City's denial of an "or-equal" request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.
- E. *Treatment as a Substitution Request:* If City determines that an item of equipment or material proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that City consider the item a proposed substitution pursuant to Paragraph 7.07.

7.07 Substitutions

- A. *Contractor's Request; Governing Criteria:* Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that City permit the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related Work at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow City to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitution therefor. City will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 - 2. The requirements for review by City will be as set forth in Paragraph 7.07.B, as supplemented by the Specifications, and as City may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to City for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application shall comply with Section 01 25 00 and:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be substantially similar in substance to the item specified; and

- 3) be well-suited to the same use as the item specified.
- b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will adversely impact Contractor's achievement of Final Acceptance on or before the Contract Time;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with City for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and Damage Claims of other contractors affected by any resulting change.
- B. *City's Evaluation and Determination:* City will be allowed a reasonable time to evaluate each substitution request. City may require Contractor to furnish additional data about the proposed substitute item. City will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until City's review is complete and City determines that the proposed item is an acceptable substitution. City's approval determination will be evidenced by a Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Time. City will advise Contractor in writing of any denial determination.
- C. *Special Guarantee:* City may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitution. ***Contractor shall indemnify and hold harmless City and its officers, elected and appointed officials, employees, agents, consultants and subcontractors and anyone directly or indirectly employed by them from and against any and all claims, damages, losses and expenses (including attorney's fees) arising out of or relateds to the use of substituted materials or equipment.***
- D. *Reimbursement of City's Cost:* City will record City's costs in evaluating a substitution proposed or submitted by Contractor. Whether or not City approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse City for evaluating each such proposed substitute. Contractor shall also reimburse City for the charges for making changes in the Contract Documents (or in the provisions of any other direct contract with City) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

- F. *City Substitution Reimbursement:* Cost savings attributable to acceptance of a substitution shall be paid to City by Contractor by an appropriate Change Order decreasing the Contract Price.
- G. *Effect of City's Determination:* If City approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The City's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.07.D, by timely submittal of a Change Order.

7.08 *Concerning Subcontractors and Suppliers*

- A. Contractor shall perform with its own organization, and with the assistance of workmen under its immediate superintendence, work of c'o k'p'o wo 'value "cu"qwdpgf "k"Ugevkp"22'65'5: "/" Rtqr qugf "Uwdeqptcevtu"Hqto ."wprguu"otherwise approved by the City.
- B. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, against whom City may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection, except as provided in Paragraph 7.08.C. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to City to perform and complete the Work in accordance with the Contract.
- C. The City may require the use of specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work , and will provide such requirements in the Supplementary Conditions.
- D. Contractor shall provide to City as part of the Bid, the identity of all proposed Subcontractors and Suppliers. Such proposed Subcontractor or Supplier shall be deemed acceptable to City unless City raises a substantive, reasonable objection prior to execution of the Agreement.
- E. Contractor shall be fully responsible to City for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between City and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of City to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- F. No acceptance by City of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of City to the completion of the Work in accordance with the Contract Documents, Contract Price and Contract Time.
- G. Contractor shall be solely responsible for scheduling and coordinating the tasks of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor.

- H. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of City. Contractor must comply with all applicable federal, state, and local laws, statutes, ordinances or regulations, including but not limited to immigration laws, workers compensation laws and wage laws, in the hiring of any Subcontractor or Supplier and shall ensure that each Subcontractor or Supplier has the same obligations.
- I. Contractor shall restrict all Subcontractors and Suppliers from communicating with City, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.09 Wage Rates

- A. *Duty to pay Prevailing Wage Rates:* The Contractor shall comply with all requirements of Chapter 2258, Texas Government Code (as amended), including the payment of not less than the rates determined by the City Council of the City of Denton to be the prevailing wage rates in accordance with Chapter 2258. The then current prevailing wage rates at the time of execution of the Agreement are included in these Contract Documents.
- B. *Penalty for Violation:* A Contractor or any Subcontractor who does not pay the prevailing wage shall, upon demand made by the City, pay to the City \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the prevailing wage rates stipulated in these contract documents. This penalty shall be retained by the City to offset its administrative costs, pursuant to Texas Government Code Section 2258.023.
- C. *Complaints of Violations and City Determination of Good Cause:* On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023, Texas Government Code, by a Contractor or Subcontractor, the City shall make an initial determination, before the 31st day after the date the City receives the information, as to whether good cause exists to believe that the violation occurred. The City shall notify in writing the Contractor or Subcontractor and any affected worker of its initial determination. Upon the City's determination that there is good cause to believe the Contractor or Subcontractor has violated Chapter 2258, the City shall retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage rates, such amounts being retained from successive progress payments pending a final determination of the violation.
- D. *Arbitration Required if Violation Not Resolved:* An issue relating to an alleged violation of Section 2258.023, Texas Government Code, including a penalty owed to the City or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the Contractor or Subcontractor and any affected worker does not resolve the issue by agreement before the 15th day after the date the City makes its initial determination pursuant to Paragraph 7.09.C. If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required, a district court shall appoint an arbitrator on the petition of any of the persons. The City is not a party in the arbitration. The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.

- E. *Records to be Maintained:* The Contractor and each Subcontractor shall, for a period of three (3) years following the date of Final Acceptance, maintain records that show (i) the name and occupation of each worker employed by the Contractor in the construction of the Work provided for in this Contract; and (ii) the actual per diem wages paid to each worker. The records shall be available in Denton County, Texas at all reasonable hours for inspection by the City. The provisions of Paragraph 7.23, Right to Audit, shall pertain to this inspection.
- F. *Progress Payments:* With each progress payment request or payroll period, whichever is less, the Contractor shall submit an affidavit stating that the Contractor has complied with the requirements of Chapter 2258, Texas Government Code.
- G. *Posting of Wage Rates:* The Contractor shall post prevailing wage rates in a conspicuous place at the Site at all times.
- H. *Subcontractor Compliance:* The Contractor shall include in its subcontracts and/or shall otherwise require all of its Subcontractors to comply with Paragraphs 7.09.A through 7.09.G.

7.10 *Patent Fees and Royalties*

- A. Contractor shall pay all patent or license fees and royalties and pay all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of City, its use is subject to patent rights or copyrights calling for the payment of any patent or license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents. Failure of the City to disclose such information does not relieve the Contractor from its obligations to pay said fees or, royalties or costs to others.
- B. ***TO THE FULLEST EXTENT PERMITTED BY LAWS AND REGULATIONS, CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CITY, AND ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, DIRECTORS, MEMBERS, PARTNERS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS OF EACH AND ANY OF THEM, FROM AND AGAINST ALL CLAIMS, COSTS, LOSSES, AND DAMAGES (INCLUDING BUT NOT LIMITED TO ALL FEES AND CHARGES OF ENGINEERS, ARCHITECTS, ATTORNEYS, AND OTHER PROFESSIONALS AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR RELATING TO ANY INFRINGEMENT OF PATENT RIGHTS OR COPYRIGHTS INCIDENT TO THE USE IN THE PERFORMANCE OF THE WORK OR RESULTING FROM THE INCORPORATION IN THE WORK OF ANY INVENTION, DESIGN, PROCESS, PRODUCT, OR DEVICE.***

7.11 *Permits and Utilities*

- A. *Contractor obtained permits and licenses.* Unless otherwise expressly provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. City shall provide reasonable assistance to Contractor, if necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work applicable at the time the Notice of Award is issued, except for permits provided by the City as specified in Paragraph 7.11.B. City shall pay the charges of utility service providers for connections for providing permanent service to the Work.

- B. *City obtained permits and licenses.* City will obtain and pay for those permits and licenses identified as City's responsibility in the Supplementary Conditions or Contract Documents. It will be the Contractor's responsibility to comply with and carry out the provisions of the permit. If the Contractor initiates changes to the Contract and the City approves the changes, the Contractor is responsible for obtaining clearances and coordinating with the appropriate regulatory agency, relating to the changes. The City will not reimburse the Contractor for any cost associated with the requirements of any City acquired permit. The following are permits the City will obtain if required:
1. Texas Department of Transportation Permits
 2. U.S. Army Corps of Engineers Permits
 3. Texas Commission on Environmental Quality Permits
 4. Railroad Company Permits
 5. Texas Department of Licensing and Regulation (TDLR) Permits
- C. *Outstanding permits and licenses.* Any outstanding permits and licenses are anticipated to be acquired in accordance with the schedule set forth in the Supplementary Conditions. The Project Schedule submitted by the Contractor in accordance with the Contract Documents must consider any outstanding permits and licenses.

7.12 *Taxes*

- A. On issuance of a Notice of Award by the City, an organization which qualifying for exemption pursuant to Texas Tax Code, Subchapter H (as amended), the Contractor may purchase, rent or lease all materials, supplies and equipment used or consumed in the performance of this contract by issuing to hisits Supplier an exemption certificate in lieu of the tax, said exemption certificate to comply with State Comptroller's Rulings applicable to Texas Tax Code, Subchapter H. Any such exemption certificate issued to the Contractor in lieu of the tax shall be subject to and shall comply with all applicable rulings pertaining to the Texas Tax Code, Subchapter H.
- B. Texas tax permits and information may be obtained from:
1. Comptroller of Public Accounts
Sales Tax Division
Capitol Station
Austin, TX 78711; or
 2. <http://www.window.state.tx.us/taxinfo/taxforms/93-forms.html>

7.13 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, City shall not be responsible for monitoring Contractor's compliance with any Laws and Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws and Regulations, Contractor shall be liable for all resulting claims, costs losses, and damages, and shall indemnify and hold harmless City, and its officers, elected

and appointed officials, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.

- C. Changes in Laws and Regulations not known at the time of the City's issuance of a Notice of Award having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Time.

7.14 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. Contractor shall include accurate locations for buried and imbedded items. These record documents, together with all approved Samples, will be available to City for reference. Upon completion of the Work, Contractor shall deliver these record documents to City prior to Final Inspection.

7.15 *Safety and Protection*

- A. As between City and Contractor, Contractor shall be responsible for the safety of persons and property in the performance of the Work, for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs. Contractor shall inform the City in writing of Contractor's designated safety representative at the Site.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.1515.C.2 or 7.1515.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be the responsibility of and remedied by Contractor at its expense.
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss;

and shall implement, erect and maintain all necessary safeguards for such safety and protection.

- F. Contractor shall notify City; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of City's safety programs, if any.
- H. Contractor shall inform City in advance in writing of the specific requirements of Contractor's safety program with which City's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed and City has issued a Letter of Final Acceptance.
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.16 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws and Regulations.

7.17 *Emergencies and/or Rectification*

- A. In the event of threatened or actual emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to immediately act to prevent damage, injury, or loss. Contractor shall give City prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency or are required as a result of Contractor's response to an emergency. If City determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Change Order may be issued.
- B. Should the Contractor fail to respond to a request from the City to rectify any discrepancies, omissions, or correction necessary to conform with the requirements of the Contract Documents, the City shall give the Contractor written notice that such work or changes are to be performed. The written notice shall direct attention to the discrepant condition and request the Contractor to take remedial action to correct the condition. In the event the Contractor does not take proper action within 24 hours to fulfill this written request or fails to show just cause for not taking the proper action, within 24 hours, the City may take such remedial action with City resources or by contract. The City shall deduct an amount equal to the entire cost for such remedial action, plus 25% from any funds due or to become due the Contractor on the Project.

7.18 *Submittals*

- A. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit required Submittals to City for review and acceptance in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.03).
1. Contractor shall submit the Submittals in accordance with Section 01 33 00 of the General Requirements.
 2. Data shown on the Submittals must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to demonstrate to City the services, materials, and equipment Contractor proposes to provide, and to enable City to review the information for the limited purposes required by Paragraph 7.18.C.
 3. Submittals reviewed and accepted by City for conformance with the design concept shall be executed in conformity with the Contract Documents unless otherwise required by City.
 4. When Submittals are submitted for the purpose of showing the installation in greater detail, their review shall not excuse Contractor from requirements shown on the Drawings and Specifications.
 5. For-Information-Only submittals upon which the City is not expected to conduct a review or take responsive action may be so identified in the Contract Documents.
 6. Contractor shall submit the required number of Samples specified in the Specifications.
 7. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which it is intended and other data as City may require to enable City to review the Submittal for the limited purposes set forth in Paragraph 7.18.C.
- B. Where a Submittal is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to City's review and acceptance of the pertinent submittal will be at the sole risk, expense and responsibility of Contractor.
- C. *City's Review*
1. City will provide timely review of Submittals in accordance with the accepted Schedule of Submittals. City's review and acceptance will be to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. City's review and acceptance will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence or procedure of construction is specifically and expressly called for by the Contract Documents), or to safety precautions or programs incident thereto.
 3. City's review and acceptance of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. City's review and acceptance of a Submittal will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Section 01 33 00 of the General

Requirements, and City has given written acceptance of each such variation by specific written notation thereof incorporated in or accompanying the Submittal.

5. City's review and acceptance of a Submittal will not relieve Contractor from responsibility for complying with the requirements of the Contract Documents.
6. City's review and acceptance of a Submittal, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Time or Contract Price, unless such changes are included in a Change Order.
7. Neither City's receipt, review, or acceptance of a Submittal will result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in accepted Submittals, subject to the provisions of Section 01 33 00 of the General Requirements.

7.19 *Continuing the Work*

- A. Except as otherwise provided, Contractor shall carry on the Work and adhere to the Project Schedule during all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as City and Contractor may otherwise agree in writing.

7.20 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to City that all Work will be in accordance with the Contract Documents and will not be defective. City and its officers, elected and appointed officials, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Contractor's warranty and guarantee under this Paragraph 7.20:
 1. Observations by Engineer or City;
 2. Recommendation by Engineer or payment by City of any progress or final payment;
 3. The issuance of a letter or certificate of Final Acceptance by City or any payment related thereto by City;
 4. Use or occupancy of the Work or any part thereof by City;
 5. Any review and acceptance of a Submittal by City;

6. Any inspection, test, or acceptance by others; or
 7. Any correction of defective Work by City.
- D. The Contractor shall remedy any defects or damages in the Work and pay for any damage to other work or property resulting therefrom which shall appear within a period of two (2) years from the date of Final Acceptance of the Work unless a longer period is specified. Contractor shall furnish a good and sufficient maintenance bond, complying with the requirements of Paragraph 6.02.B. The City will give notice of observed defects with reasonable promptness.

7.21 *Indemnification*

- A. **CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM , FROM AND AGAINST ANY AND ALL CLAIMS FOR PERSONAL OR BODILY INJURY OR DEATH, ARISING OUT OF OR RELATED TO, OR ALLEGED TO ARISE OUT OF OR BE RELATED TO, THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THESE CONTRACT DOCUMENTS. THIS INDEMNIFICATION PROVISION IS SPECIFICALLY INTENDED TO OPERATE AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY, OR ITS OFFICERS, ELECTED OR APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS OR SUBCONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR COSTS, EXPENSES AND LEGAL FEES INCURRED IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.**
- B. **CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY AND HOLD HARMLESS, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS AND SUBCONTRACTORS AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM FROM AND AGAINST ANY AND ALL LOSS, DAMAGE OR DESTRUCTION OF PROPERTY OF THE CITY, ARISING OUT OF OR RELATED TO, OR ALLEGED TO ARISE OUT OF OR BE RELATED TO, THE WORK AND SERVICES TO BE PERFORMED BY THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES OR INVITEES UNDER THIS CONTRACT. THIS INDEMNIFICATION PROVISION IS SPECIFICALLY INTENDED TO OPERATE AND BE EFFECTIVE EVEN IF IT IS ALLEGED OR PROVEN THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED, IN WHOLE OR IN PART, BY ANY ACT, OMISSION OR NEGLIGENCE OF THE CITY OR ITS OFFICERS, ELECTED OR APPOINTED OFFICIALS, EMPLOYEES, AGENTS, CONSULTANTS OR SUBCONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM.**

7.22 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, City will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Submittal related to the requirements indicated in Paragraph 7.22.B is prepared by Contractor, a Subcontractor, or others for submittal to City, then such Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to City.
- D. City shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under the conditions indicated in Paragraph 7.22.B, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.22, City's review, acceptance, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to the conditions indicated in Paragraph 7.22.B, will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.22;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 - 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.

7.23 *Right to Audit*

- A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract during the term of the Contract and for five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be made available, in Denton County, Texas within ten (10) Business Days of City's written request. Further, the Contractor shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within Denton County, Texas. Except as otherwise provided herein, the cost of the audit will be borne by the City

unless the audit reveals an overpayment of 1% or greater. If the City is undertaking an audit or inspection pursuant to Paragraph 7.09 or if an overpayment of 1% or greater occurs, the City's reasonable cost of the audit, including any travel costs, must be paid by the Contractor within five (5) Business Days of receipt of City's invoice for such costs.

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

7.24 *Nondiscrimination*

- A. The City is responsible for operating Public Transportation Programs and implementing transit-related projects, funded in part with Federal financial assistance awarded by the U.S. Department of Transportation and the Federal Transit Administration (FTA), without discriminating against any person in the United States on the basis of race, color, or national origin.
- B. Contractor shall comply with the requirements of *Title VI, Civil Rights Act of 1964 as amended* and the regulations promulgated thereunder, as may be further defined in the Supplementary Conditions, for any project receiving Federal assistance.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the City may perform other work at or adjacent to the Site. Such other work may be performed by City's employees, or through contracts between the City and third parties. City may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If City performs other work at or adjacent to the Site with City's employees, or through contracts for such other work, then City shall give Contractor written notice thereof prior to starting any such other work, if such other work is not noted in the Contract Documents.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and City, if City is performing other work with City's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of City and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to City in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with

Contractor's Work except for latent defects and deficiencies in such other work that could not have been discovered through a proper inspection.

- F. The provisions of this Article 8 are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with City, or that is performed without having been arranged by City. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.03.D.3.

8.02 *Coordination*

- A. If City intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with City's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, City shall have authority for such coordination.

8.03 *Legal Relationships*

- A. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of City, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. When City is performing other work at or adjacent to the Site with City's employees, Contractor shall be liable to City for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by City as a result of Contractor's failure to take reasonable and customary measures with respect to City's other work.
- B. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any Damage Claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, City, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify, defend and hold harmless City and Engineer, and the officers, elected and appointed officials, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – CITY’S RESPONSIBILITIES**9.01** *Communications to Contractor*

- A. Except as otherwise provided in the Supplementary Conditions, City shall issue all communications to Contractor.

9.02 *Furnish Data*

- A. City shall promptly furnish the data required of City under the Contract Documents.

9.03 *Pay When Due*

- A. City shall make payments to Contractor when they are due in accordance with and subject to the provisions of Article 14.

9.04 *Lands and Easements; Reports, Tests, and Drawings*

- A. City’s duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Article 5 refers to City’s identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by City in preparing the Contract Documents.

9.05 *Change Orders*

- A. City’s responsibilities with respect to Change Orders are set forth in Article 11.

9.06 *Inspections, Tests, and Approvals*

- A. City’s responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.02.DD.

9.07 *Limitations on City’s Responsibilities*

- A. The City shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. City will not be responsible for Contractor’s failure to perform the Work in accordance with the Contract Documents.

9.08 *Undisclosed Hazardous Environmental Condition*

- A. City’s responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.09 *Compliance with Safety Program*

- A. While at the Site, City’s employees and representatives shall comply with the specific applicable requirements of Contractor’s safety programs of which City has been informed in advance in writing pursuant to Paragraph 7.15.

ARTICLE 10 – CITY’S OBSERVATION DURING CONSTRUCTION**10.01** *City’s Project Manager or Duly Authorized Representative*

- A. City will provide a Project Manager or duly authorized representative during the construction period. The duties and responsibilities and the limitations of authority of City’s Project Manager or duly appointed representative during construction are set forth in the Contract Documents.
- B. City’s Project Manager for these Contract Documents is as set forth in the Supplementary Conditions. City will establish a duly authorized representative at the Preconstruction Meeting in accordance with Section 01 31 19 of the General Requirements.

10.02 *Visits to Site*

- A. City will make visits to the Site at intervals appropriate to the various stages of construction as City deems necessary in order to observe the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, City will determine, in general, if the Work is proceeding in accordance with the Contract Documents. City will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. City’s efforts will be directed toward providing City a greater degree of confidence that the completed Work will conform generally to the Contract Documents.
- B. City’s visits and observations are subject to all the limitations on City’s responsibility set forth in Paragraph 9.07. Particularly, but without limitation, during or as a result of City’s visits or observations of Contractor’s Work, City will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Determinations for Work Performed*

- A. As applicable, Contractor will determine the actual quantities and classifications of Work performed.. City’s Project Manager or duly authorized representative will review with Contractor the preliminary determinations on such matters before rendering a written recommendation. City’s written decision will be final (except as modified to reflect changed factual conditions or more accurate data).

10.04 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. City will be the interpreter of the requirements of the Contract Documents and judge the acceptability of the Work thereunder.
- B. City will render a written decision on any issue referred.
- C. City’s written decision on the issue referred will be final and binding on the Contractor, subject to the provisions of Paragraph 11.07.

ARTICLE 11 – CHANGES IN THE WORK; CLAIMS; EXTRA WORK**11.01 *Amending and Supplementing the Contract***

- A. The Contract may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof, including in the Contract Price or Contract Time, but such amendment will be made by Change Order only.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work not involving a change in Contract Price or Contract Time, may be authorized, by one of the following ways:
 - 1. A Field Order; or
 - 2. City's review of a Submittal (subject to the provisions of Paragraph 7.18.C); or
 - 3. City's written interpretation or clarification.

11.02 *Execution of Change Orders*

- A. City and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in the Contract Price or Contract Time which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed..
 - 2. Changes in the Work which are: (a) ordered by City pursuant to Paragraph 11.04, (b) required because of City's acceptance of defective Work under Paragraph 13.05 or City's correction of defective Work under Paragraph 13.08, or (c) as otherwise agreed to by the parties.

11.03 *Field Orders*

- A. City may authorize minor variations and deviations in changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Time and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on both the City and Contractor, which shall perform the Work involved promptly.

11.04 *Authorized Changes in the Work – Extra Work*

- A. Without invalidating the Contract and without notice to any surety, City may, at any time or from time to time, order Extra Work. Upon notice of such Extra Work, Contractor shall proceed with the Work involved only upon receiving written notice from City. Extra Work will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided). Extra Work shall be memorialized by a Change Order which may or may not precede an order of Extra Work.
- B. For minor changes of Work not requiring changes to Contract Time or Contract Price, a Field Order may be issued by City.

11.05 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any work performed that is not required by the Contract

Documents, as amended, modified, or supplemented as allowed herein, except in certain cases of an emergency as provided in Paragraph 7.17.A.

11.06 *Dispute of Extra Work*

- A. Should a difference arise as to what does or does not constitute Extra Work, or as to the payment for such Extra Work, and the City requires its performance, the Contractor shall proceed with the Extra Work after making written request for a Change Order and shall keep accurate account of the actual reasonable cost thereof. Contract Claims regarding Extra Work shall be made pursuant to Paragraph 11.07.
- B. The Contractor shall furnish the City such records of all deviations from the original Contract Documents as may be necessary to enable the City to prepare for permanent record a corrected set of plans showing the actual work performed.
- C. The compensation agreed upon for Extra Work whether or not initiated by a Change Order shall be the full, complete and final payment for all charges, fees and costs Contractor incurs as a result of or relating to the Extra Work, whether said charges, fees or costs are known, unknown, foreseen or unforeseen at that time, including without limitation, any charges, fees or costs for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of the Extra Work.

11.07 *Contract Claims Process*

- A. *City's Decision Required:* All Contract Claims, except those waived pursuant to Paragraph 14.08, shall be referred to the City for decision. A decision by City shall be required as a condition precedent to any exercise by Contractor of any rights or remedies he may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Contract Claims.
- B. *Notice:*
 - 1. Written notice stating the general nature of each Contract Claim shall be delivered by the Contractor to City no later than 15 days after the start of the event giving rise thereto. The responsibility to substantiate a Contract Claim shall rest with the party making the Contract Claim.
 - 2. Notice of the amount or extent of the Contract Claim, with supporting data shall be delivered to the City no later than 45 days after the start of the event giving rise thereto (unless the City notifies Contractor in writing that City will allow additional time for Contractor to submit additional or more accurate data in support of such Contract Claim).
 - 3. A Contract Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 11.08.
 - 4. A Contract Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of Paragraph 11.09.
 - 5. Each Contract Claim shall be accompanied by Contractor's written statement that the adjustment claimed is the entire adjustment to which the Contractor believes it is entitled as a result of said event.

6. The City shall submit any response to the Contractor within 30 days after receipt of the Contractor's last submittal (unless in connection with the Contract Claim (unless Contractor allows the City additional time to submit a response).
- C. *City's Action:* City will review each Contract Claim and, within 30 days after receipt of the last submittal of the Contractor unless action by City's Council is required, take one of the following actions in writing:
 1. deny the Contract Claim in whole or in part;
 2. approve the Contract Claim; or
 3. notify the Contractor that the City is unable to resolve the Contract Claim if, in the City's sole discretion, it would be inappropriate for the City to do so. For purposes of further resolution of the Contract Claim, such notice shall be deemed a denial.
- D. City's written action under this Paragraph 11.07 will be final and binding, unless City or Contractor invoke the dispute resolution procedure set forth in Article 16 within 30 days of such action or denial.
- E. No Contract Claim for an adjustment in Contract Price or Contract Time will be valid if not submitted in accordance with this Paragraph 11.07.
- F. If the City fails to take any action pursuant to this Paragraph 11.07, the Contract Claim is considered to have been denied by the City.

11.08 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order.
- B. The value of any Work covered by a Change Order will be determined as follows:
 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 12.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum or unit price (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.08.C.2), and shall include the cost of any secondary impacts that are foreseeable at the time of pricing the cost of Extra Work; or
 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum or unit price, then on the basis of the Cost of the Work (determined as provided in Paragraph 12.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.08.C).
- C. *Contractor's Fee:* The Contractor's fee for overhead and profit will be determined as follows:
 1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

- a. For costs incurred under Paragraphs 12.01.B.1, 12.01.B.2, and 12.01.B.3, the Contractor's fee will be 15 percent except for:
 - 1) rental fees for Contractor's own equipment; and
 - 2) bonds and insurance;
- b. For costs incurred under Paragraph 12.01.B.4, the Contractor's fee will be 5 percent;
 - 1) Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.08.C.2.a and 11.08.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 12.01.B.1, 12.01.B.2, and 12.01.B.3 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, in no case shall the cumulative total of fees paid be in excess of 25% of the Cost of the Work;
- c. No fee will be payable on the basis of costs itemized under Paragraphs 12.01.B.5, 12.01.B.6, and 12.01.C;
- d. The amount of credit to be allowed by Contractor to City for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and

11.09 *Change of Contract Time*

- A. The Contract Time may only be changed by a Change Order.
- B. No extension of the Contract Time will be allowed under a Change Order for Extra Work or for claimed delay unless the Extra Work contemplated or claimed delay is shown to be on the critical path of the Project Schedule or Contractor can show by critical path method analysis how the Extra Work or claimed delay adversely affects the critical path.
- C. Delay, disruption, and interference in the Work, and any related changes in Contract Time, are addressed in and governed by Paragraph 4.03.

11.10 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted by the Contractor to reflect the effect of any such change.

ARTICLE 12 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK; PLANS QUANTITY MEASUREMENT**12.01 Cost of the Work**

- A. *Purposes for Determination of Cost of the Work:* The term “Cost of the Work” means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 12.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* The term, “Cost of the Work” means the sum of all costs, except those excluded in Paragraph 12.01.C, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work is covered by a Change Order, the costs reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work. Such costs shall be in amounts no higher than those calculated based on the prevailing wage rates contained in the Contract Documents, shall not include any of the costs itemized in Paragraph 12.01.C, and may include as applicable, but not be limited to the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by City and Contractor. Such employees shall include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs shall include, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers’ compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours on Business Days, during Weekend Working Hours, or on a state or federal holiday observed by the City, shall be included in the above to the extent authorized by City.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers’ field services required in connection therewith.
 3. Rentals of all construction equipment and machinery and the parts thereof, whether rented from Contractor or others, in accordance with rental agreements approved in writing by City, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. and the Contract Documents. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

4. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from subcontractors acceptable to City. Contractor shall deliver such bids to City, which will then determine, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 12.01 and Paragraph 11.08.C.
5. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work and specifically included in the agreed upon schedule of job classifications referred to in Paragraph 12.01.B.1 or otherwise specifically included in the Contract.
6. Supplemental costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, and temporary office or facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations, excluding those taxes for which an exemption is available as described in Paragraph 7.12.
 - d. Deposits lost for causes other than the negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - e. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work, provided such losses and damages have resulted from causes other than the negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of CityCity. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - f. The cost of utilities, fuel, and sanitary facilities at the Site.
 - g. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
 - h. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 12.01.B.1 or otherwise specifically covered in the Contract. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the acts, omissions, negligence or willful misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind.
- D. *Contractor's Fee*
1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Agreement will be determined as set forth in the Contract.
 - b. for any Work covered by a Change Order for an adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as set forth in Paragraph 11.08.C.
 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order for an adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.08.C.2.
- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 12, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices, and submit in a form acceptable to City an itemized cost breakdown together with supporting data. Subject to prior written notice, City will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by City. Contractor will be responsible for ensuring that pertinent Subcontractors will afford such access to City, and preserve such documents, to the same extent as is required of Contractor.

12.02 Allowances

- A. *Specified Allowance*: It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to City.
- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances, have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of City.
- D. Prior to final payment, an appropriate Change Order will be issued to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

12.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work multiplied by the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by City subject to the provisions of Paragraph 10.03.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item. Work described in the Contract Documents, or reasonably inferred as required for a functionally complete installation, but not identified in the listing of unit price items shall be considered incidental to Unit Price Work listed and the cost of incidental work included as part of the unit price.
- D. Adjustments in Contract Price
 - 1. City may make an adjustment in the Contract Price in accordance with Paragraph 11.08 if:
 - a. the quantity of the item of Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. there is no corresponding adjustment with respect to any other item of Work.
 - 2. Adjusted unit prices will apply to all units of that item.

- E. Increased or Decreased Quantities: The City reserves the right to order Extra Work in accordance with Paragraph 11.04.
1. If the changes in quantities or the alterations do not significantly change the character of the Work under the Contract Documents, the altered Work will be paid for at the Contract unit price.
 2. If the changes in quantities or alterations materially and significantly change the character of the Work, the Contract will be amended by a Change Order.
 3. If no unit prices exist, this any increase or decrease in quantities will be considered Extra Work and the Contract will be amended by a Change Order in accordance with Article 11.
 4. A significant change in the character of Work occurs when:
 - a. the character of work for any Item as altered differs materially or significantly in kind or nature from that in the Contract; or
 - b. a Major Item of work varies by more than 25% from the original Contract quantity.
 5. When the quantity of work to be done under any Major Item of the Contract is more than 125% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price on the portion of the work that is above 125%.
 6. When the quantity of work to be done under any Major Item of the Contract is less than 75% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price.

12.04 *Plans Quantity Measurement for Unclassified Excavation or Embankment*

- A. Plans quantities may or may not represent the exact quantity of Work performed or material moved, handled, or placed during the term of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised in accordance with the Contract.
- B. If the total actual quantity measured for an individual item varies by more than 25% (or as stipulated under "Price and Payment Procedures" for specific Items) from the total estimated quantity for an individual Item originally shown in the Contract Documents, an adjustment may be made to the quantity of authorized Work done for payment purposes. The party to the Contract requesting the adjustment will provide field measurements and calculations showing the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that Item, except as provided for in Article 11.
- C. When quantities are revised by a change in design approved by the City, by Change Order, or to correct an error, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount identified in the approved change, and the 25% variance provisions of Paragraph 12.04.B will apply to the new plans quantity.
- D. If the total Contract quantity multiplied by the unit price bid for an individual Item is less than \$250 and the Item is not originally a plans quantity Item, then the Item may be paid as a plans quantity Item if the City and Contractor agree in writing to fix the final quantity as a plans quantity.

- E. For callout work or non-site specific Contracts, the plans quantity measurement requirements are not applicable.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Access to Work*

- A. City and its Engineer, consultants, representatives, employees, and independent testing laboratories, and authorities having jurisdiction shall have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

13.02 *Tests and Inspections*

- A. Contractor shall give City timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. If the Contract Documents or any Laws and Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish City the required certificates of inspection, testing or approval, except that those fees specifically identified in the Supplementary Conditions or any Texas Department of Licensure and Regulation (TDLR) inspections, which shall will be paid as described in the Supplementary Conditions.
- C. Contractor shall be responsible for arranging, obtaining, and paying for all inspections, tests, re-tests, and approvals required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to City;
 - 2. to attain City's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to City.

- D. City may arrange for the services of an independent testing laboratory ("Testing Lab") to perform any inspections or tests ("Testing") for any part of the Work, as determined solely by City.
 - 1. City will coordinate such Testing to the extent possible, with Contractor;

2. Should any Testing under this Section 13.03.D result in a “fail”, “did not pass” or other similar negative result, the Contractor shall be responsible for paying for any and all retests. Contractor’s cancellation without cause of City initiated Testing shall be deemed a negative result and require a retest.
 3. Any amounts owed for any retest under this Section 13.02.D shall be paid directly to the Testing Lab by Contractor. City will forward all invoices for retests to Contractor.
 4. If Contractor fails to pay the Testing Lab, City will not issue Final Payment until the Testing Lab is paid.
- E. If the Contract Documents require the Work (or part thereof) to be approved by City or another designated individual or entity, then Contractor shall assume full responsibility for seeking and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without the written approval of City, Contractor shall, if requested by City, uncover such Work for observation. Such uncovering and the recovering of such Work will be at Contractor’s expense.

13.03 *Defective Work*

- A. *Contractor’s Obligation:* It is Contractor’s obligation to assure that the Work is not defective.
- B. *City’s Authority:* City has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Written notice of all defective Work of which City has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if City has rejected the defective Work, shall remove the defective Work from the Project and replace it with Work that is not defective. Failure to require the removal of any defective Work shall not constitute acceptance of such Work.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair City’s warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Contractor or City by governmental authorities because the Work is defective, and the costs of repair, replacement or reconstruction of work of others resulting from defective Work.

13.04 *Rejecting Defective Work*

- A. City will have authority to reject Work which City believes to be defective or will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. City will have authority to conduct special inspection or testing

of the Work as provided in this Article 13, whether or not the Work is fabricated, installed, or completed.

13.05 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, City prefers to accept it, City may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to City's evaluation of and determination to accept such defective Work, and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to Final Acceptance, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of the Work so accepted.

13.06 *Uncovering Work*

- A. City has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the Contract Documents or specific instructions of City and if requested by City, Contractor shall uncover such Work for City's observation, inspection or testing and then replace the covering, all at Contractor's expense.
- C. If City considers it necessary or advisable that covered Work be observed by City or inspected or tested by others, then Contractor, at City's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as City may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others). City shall be entitled to accept defective Work in accordance with Paragraph 13.05 and in such case Contractor shall still be responsible for all costs associated with exposing, observing, and testing defective Work.
 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an extension of the Contract Time to the extent directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction.

13.07 *City May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or Contractor fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then City may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been corrected or eliminated; however, this right of City to stop the Work will not give rise to any duty on the part of City to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or any employee or agent of, any of them.

13.08 *City May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from City to correct defective Work, or to remove and replace defective Work as required by City, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then City may, after providing 7 days' advance written notice to Contractor, correct or remedy any such deficiency.
- B. In connection with such corrective or remedial action, City may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which City has paid Contractor but which are stored elsewhere. Contractor shall allow City, City's representatives, agents and employees, and City's other contractors access to the Site to enable City to exercise the rights and remedies under this Paragraph 13.08.
- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court, or arbitration or other dispute resolution costs) incurred or sustained by City in exercising the rights and remedies under this Paragraph 13.08 will be the responsibility of and will be charged against Contractor. A Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Time because of any delay in the performance of the Work attributable to the exercise by City of City's rights and remedies under this Paragraph 13.08.

ARTICLE 14 – PAYMENTS TO CONTRACTOR; COMPLETION; CORRECTION PERIOD**14.01** *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Paragraph 2.03 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to City. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 12.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. Applications for Payments
 - 1. Contractor is responsible for providing all information as required to become a vendor of the City.
 - 2. At least 20 days before the date established in the General Requirements for each progress payment (but not more often than once a month), Contractor shall submit to City for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

3. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) bill of sale, invoice, or purchase order payments, copies of cancelled checks or other documentation establishing full payment by Contractor for the materials and equipment; (b) at City's request, documentation warranting that City has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, or other arrangements to protect City's interest therein, all of which must be satisfactory to City.
4. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received on account of the Work by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
5. The amount of retainage with respect to progress payments will be as stipulated in the Contract Documents.

C. Review of Applications

1. City will, after receipt of each Application for Payment, either indicate in writing it will proceed to process the Application for Payment or return the Application to Contractor indicating reasons for refusing payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. City's processing of any payment requested in an Application for Payment will be based on City's observations of the executed Work, and on City's review of the Application for Payment and the accompanying data and schedules, that based City's actual knowledge:
 - a. the Work has progressed to the point indicated; and
 - b. the quality and/or quantity of the Work is generally in accordance with the Contract Documents (subject to any subsequent evaluations of the Work, an evaluation of the Work as a functioning whole prior to or upon Final Acceptance, the results of any subsequent tests or inspections called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraphs 10.05 and 12.03, and any other qualifications stated).
3. Processing any such payment will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work; or
 - b. there are no other matters or issues between the parties that might entitle Contractor to be paid additionally by City or entitle City to withhold payment to Contractor; or
 - c. Contractor has complied with Laws and Regulations applicable to Contractor's performance of the Work.
4. City may refuse to process or pay the whole or any part of any payment because of subsequently discovered evidence or the results of subsequent inspections or tests, and

may revise or revoke any such payment previously made, to such extent as may be necessary to protect City from loss because:

- a. the Work is defective, or the completed Work has been damaged by the Contractor or his subcontractors, requiring correction or replacement;
- b. there are discrepancies in quantities contained in previous applications for payment;
- c. the Contract Price has been reduced by Change Orders;
- d. City has been required to correct defective Work in accordance with Paragraph 13.08, or has accepted defective Work pursuant to Paragraph 13.05;
- e. City has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- f. City has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Retainage:

1. For all contracts, retainage shall be five percent (5%).

E. *Liquidated Damages*: For each calendar day that any work shall remain uncompleted after the time specified in the Contract Documents, the sum per day specified in the Agreement will be paid by the Contractor to the City, not as a penalty, but as liquidated damages suffered by the City. If feasible, the parties may agree to have the liquidated damages deducted from any amounts owned to Contractor by City instead of being paid directly to City by Contractor.

F. *Payment*: Contractor will be paid pursuant to the requirements of this Article 14 and payment will become due in accordance with the Contract Documents.

G. Reduction in Payment

1. City may refuse to make payment of the of the amount requested because:
 - a. Claims have been made against City based on Contractor's performance or furnishing of the Work, or City has incurred costs, losses, or damages resulting from Contractor's performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, or patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. City has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. City has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;

- g. City has been required to correct defective Work in accordance with Paragraph 13.08, or has accepted defective Work pursuant to Paragraph 13.05;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones or Final Acceptance of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to City to secure the satisfaction and discharge of such Liens;
 - l. Other items entitle City to a set-off against the payment amount requested; or
 - m. City has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.
2. If City refuses to make payment of the amount requested, City will give Contractor written notice stating the reasons for such action and promptly pay Contractor any amount remaining after deduction of the amount so withheld. City shall pay Contractor the amount so withheld, or any adjustment thereto agreed to by City and Contractor, within a reasonable time after Contractor remedies the reasons for such action to the satisfaction of City and City has confirmed such action.

14.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to City no later than the time of payment free and clear of all Liens.

14.03 *Partial Utilization*

- A. Prior to Final Acceptance of all the Work, City may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which City determines constitutes a separately functioning and usable part of the Work that can be used by City for its intended purpose without significant interference with Contractor's performance of the remainder of the Work. City at any time may notify Contractor in writing to of any such part of the Work which City determines to be ready for its intended use. In addition, City may request in writing that Contractor permit City to use or occupy any such part of the Work that City believes to be substantially complete, subject to the following conditions:
 - 1. At any time, Contractor may notify City that Contractor considers any such part of the Work ready for its intended use.
 - 2. Within a reasonable time after notification as enumerated in Paragraph 14.03, City and Contractor shall make an inspection of that part of the Work to determine its status of completion. If City does not consider that part of the Work to be substantially complete, City will notify Contractor in writing giving the reasons therefor.
 - 3. Partial Utilization by City will not constitute Final Acceptance by City.

14.04 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work is complete in accordance with the Contract Documents:
 - 1. City will promptly schedule a Final Inspection with Contractor.
 - 2. City will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.
- B. City reserves the right to deny request for Final Inspection if City determines that the entire Work is not sufficiently complete to warrant a Final Inspection.

14.05 *Final Acceptance*

- A. Upon completion by Contractor to City's satisfaction, of any and all Work in accordance with the Contract Documents, including any corrections or additional Work identified in the Final Inspection and delivery of all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurances, certificates of inspection, annotated record documents and other required documents in accordance with the Contract Documents, City will issue to Contractor a letter of Final Acceptance.

14.06 *Final Payment*

- A. Application for Payment
 - 1. Upon receipt of a letter of Final Acceptance from City, Contractor may make application for Final Payment following the procedures for requesting payments in accordance with the Contract Documents.
 - 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by Paragraph 6.03;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to City free and clear of any Liens or other title defects or will so pass upon final payment.
 - d. a list of all Contract Claims or Damage Claims against City that Contractor believes are unsettled; and
 - e. affidavits of payments and complete and legally effective releases or waivers (satisfactory to City) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
- B. Payment Becomes Due: The final payment requested by Contractor, less previous payments made and less any sum to which City is entitled, including but not limited to liquidated damages, will become due and payable:
 - 1. After City's acceptance of the Application for Payment and accompanying documentation; and

2. After all Damage Claims have been resolved:
 - a. directly by the Contractor; or
 - b. Contractor provides evidence that the Damage Claim has been reported to Contractor's insurance provider for resolution.

The making of the final payment by the City shall not relieve the Contractor of any guarantees or other requirements of the Contract that continue thereafter.

14.07 *Final Completion Delayed and Partial Retainage Release*

- A. If final completion of the Work is significantly delayed, and if City so confirms, City may, upon receipt of Contractor's final Application for Payment, 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 to be held by City for Work not fully completed or corrected is less than the retainage stipulated in Paragraph 14.01.D, and if bonds have been furnished as required in Paragraph 6.02, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to City with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Contract Claims.
- B. *Partial Retainage Release.* If the Contract provides for separate establishment and maintenance periods and/or test and performance periods following the completion of all other construction in the Contract Documents for all Work locations, the City may release a portion of the amount retained provided that all other work is completed as determined by the City. Before the release, all submittals and final quantities must be completed and accepted for all other work. An amount sufficient to ensure Contract compliance will be retained.

14.08 *Waiver of Claims*

- A. The acceptance of final payment will constitute a waiver and release by Contractor of all claims, rights, causes of action, or liabilities, including Contract Claims, against City arising out of, related to or under the Contract or for any act, omission or neglect of City.

14.09 *Correction Period*

- A. If within two (2) years after the date of Final Acceptance (or such longer period of time as may be prescribed by the Contract Documents) any Work has been found to be defective, or Contractor's repair of any damages to the Site, adjacent areas, or areas made available for Contractor's use by City has been found to be defective, then after receipt of City's written notice of defect, Contractor shall promptly, without cost to City and in accordance with City's written instructions:
 1. correct the defective repairs to the Site or such adjacent areas, or areas made available for Contractor's use by City;
 2. correct such defective Work;
 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by City, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. If Contractor does not promptly comply with the terms of City's written instructions, or in an emergency where delay would cause serious risk of loss or damage, City may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Final Acceptance of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected, repaired or removed and replaced under this Paragraph 14.09, the correction period hereunder with respect to such Work may be extended for an additional period of one year after the end of the initial correction period.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this Paragraph 14.09 are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *City May Suspend Work*

- A. At any time and without cause, City may suspend the Work or any portion thereof by written notice to Contractor. City may fix the date on which Work will be resumed in such notice, and Contractor shall resume the Work on the date so fixed. During a temporary suspension of the Work covered by these Contract Documents, for any reason, the City will make no extra payment for stand-by time of construction equipment and/or construction crews.
- B. Should the Contractor not be able to complete a portion of the Project due to causes beyond the control of and without the fault or negligence of the Contractor, and should it be determined by mutual consent of the Contractor and City that a solution to allow construction to proceed is not available within a reasonable period of time, Contractor may request an extension in Contract Time, directly attributable to any such suspension.
- C. If it should become necessary to suspend the Work for an indefinite period, the Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily nor become damaged in any way; Contractor shall take every precaution to prevent damage or deterioration of the work performed; and Contractor shall provide suitable drainage about the work, and erect temporary structures where necessary.
- D. Contractor may be reimbursed for the cost of moving its equipment off the job and returning the necessary equipment to the job when it is determined by the City that construction may be resumed. Such reimbursement shall be based on actual cost to the Contractor of moving the

equipment and no profit or overhead will be allowed. Reimbursement may not be allowed if the equipment is moved to another construction project for the City.

15.02 *City May Terminate for Cause*

- A. The occurrence of any one or more of the following events by way of example, but not of limitation, may justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Project Schedule established under Paragraph 2.06 as adjusted from time to time pursuant to Paragraph 7.05);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract; or
 3. Contractor's disregard of Laws and Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of City; or
 5. Contractor's failure to promptly make good any defect in materials or workmanship, or defects of any nature, the correction of which has been directed in writing by the City; or
 6. Substantial indication that the Contractor has made an unauthorized assignment of the Contract or any funds due therefrom for the benefit of any creditor or for any other purpose; or
 7. Substantial indication that the Contractor has become insolvent or bankrupt, or otherwise financially unable to perform the Work satisfactorily; or
 8. Contractor commences legal action in a court of competent jurisdiction against the City.
- B. If one or more of the events identified in Paragraph 15.02.A occurs, City will provide written notice to Contractor and Surety to arrange a conference with Contractor and Surety to address Contractor's failure to perform the Work. The conference shall be held not later than 15 days after receipt of notice. by both Contractor and surety.
1. If the City, the Contractor, and the Surety do not agree to allow the Contractor to proceed to perform the Contract, the City may, to the extent permitted by Laws and Regulations, declare a Contractor default and formally terminate the Contractor's right to complete the Contract. Contractor default shall not be declared earlier than 20 days after the Contractor and Surety have received notice of the conference to address Contractor's failure to perform the Work.
 2. If Contractor's services are terminated, Surety shall be obligated to take over and perform the Work. If Surety does not commence performance thereof within 15 consecutive calendar days after date of an additional written notice demanding Surety's performance of its obligations, then City, without process or action at law, may take over any portion of the Work and complete it as described below.
 - a. If City completes the Work, City may exclude Contractor and Surety from the Site and take possession of the Work, and all materials and equipment stored at the Site

or for which City has paid Contractor, but which are stored elsewhere, and the Work as City may deem expedient.

3. Whether City or Surety completes the Work, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by City, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to City. Such claims, costs, losses, and damages incurred by City will be incorporated in a Change Order, provided that when exercising any rights or remedies under this Paragraph 15.02, City shall not be required to obtain the lowest price for the Work performed.
 4. Neither City, nor any of its respective consultants, agents, officers, elected or appointed officials, directors or employees shall be in any way liable or accountable to Contractor or Surety for the method by which the completion of the said Work, or any portion thereof, may be accomplished or for the price paid therefor.
 5. City, notwithstanding the method used in completing the Contract, shall not forfeit the right to recover damages from Contractor or Surety for Contractor's failure to timely complete the entire Contract. Contractor shall not be entitled to any claim, counterclaim or offset on account of the method used by City in completing the Contract.
 6. Maintenance of the Work shall continue to be Contractor's and Surety's responsibilities as provided for in the bond requirements of the Contract Documents or any special guarantees provided for under the Contract Documents or any other obligations otherwise under the Contract or prescribed by law.
- C. Notwithstanding Paragraph 15.02.B, Contractor's services will not be terminated if Contractor begins within seven days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.
- D. Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor then existing or which may thereafter accrue, or any rights or remedies of City against Contractor or Surety. Any retention or payment of money due Contractor by City will not release Contractor from liability.
- E. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.02, the termination procedures of that bond shall not supersede the provisions of this Article 15.

15.03 *City May Terminate for Convenience*

- A. City may, without cause and without prejudice to any other right or remedy of City, terminate the Contract, in whole or in part. Any termination shall be affected by giving notice of the termination to the Contractor specifying the extent to which performance of Work under the contract is terminated, and the date upon which such termination becomes effective. Notice shall be deemed validly given if given in accordance with Paragraph 17.01.A.

- B. After a notice of termination, has been given, and except as otherwise directed by the City, the Contractor shall:
1. stop work under the Contract on the date and to the extent specified in the notice of termination;
 2. place no further orders or subcontracts for materials, services or facilities except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
 3. terminate all orders and subcontracts to the extent that they relate to the performance of the Work terminated by notice of termination;
 4. transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the City:
 - a. the fabricated or unfabricated parts, Work in progress, completed Work, supplies and other material produced as a part of, or acquired in connection with the performance of, the Work terminated by the notice of the termination; and
 - b. the completed, or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to the City.
 5. complete performance of such Work as shall not have been terminated by the notice of termination; and
 6. take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to the Contract that is in the possession of the Contractor and in which the City has or may acquire the rest.
- C. At a time not later than 30 days after the termination date specified in the notice of termination, the Contractor may submit to the City a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of in accordance with the Contract, exclusive of items the disposition of which has been directed or authorized by City.
- D. Not later than 15 days after Contractor's submission of the certified list to City pursuant to Paragraph 15.03.C, the City shall accept title to such items, subject to verification of the list by the City upon removal of the items or, If the items are stored, then City shall have 45 days after submission of the list, to verify the list submitted and accept title to such items. Any necessary adjustments to correct the list as submitted, shall be made prior to final settlement.
- E. Not later than 60 days after the notice of termination has been given, the Contractor shall submit a termination claim to the City in the form and with the certification prescribed by the City. Unless an extension request is made in writing within such 60-day period by the Contractor, and granted by the City, any and all such claims of Contractor that are not submitted to City within such 60-day period shall be conclusively deemed waived.
- F. Should a termination claim be timely submitted to the City, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead

- and profit on such Work calculated and determined in accordance with the Contract Documents;
2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses calculated and determined in accordance with the Contract Documents; and
 3. reasonable expenses directly attributable to reasonable and necessary wind-down and termination activities, without any overhead or profit.
- G. In the event of the failure of the Contractor and City to agree upon the whole amount to be paid to the Contractor by reason of the termination of the Work, the City shall determine, on the basis of information submitted and available to it, the amount, if any, due to the Contractor by reason of the termination and City shall pay to the Contractor the amounts so determined. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of, related to or resulting from such termination.

ARTICLE 16 – RESOLUTION OF DISPUTES

16.01 *Methods and Procedures*

- A. Either City or Contractor may request mediation of any Contract Claim submitted for a decision under Paragraph 11.07 before such decision becomes final and binding. The request for mediation shall be submitted to the other party to the Contract. Timely submission of the request shall stay the effect of Paragraph 11.07.E.
- B. City and Contractor shall participate in the mediation process in good faith. The process shall be commenced within 60 calendar days of filing of the request.
- C. The parties shall agree on a mediator; however, if they cannot agree within 14 calendar days then the Denton County Alternative Dispute Resolution Program (“DCAP”) shall appoint a mediator. The mediation session shall be held within 45 days of the retention of the mediator, and last for at least one full mediation day, before any party has the option to withdraw from the process. The parties may agree to continue the mediation process beyond one day, until there is a settlement agreement, or one party, or the mediator, states that there is no reason to continue because of an impasse that cannot be overcome and sends a “notice of termination of mediation.” All reasonable efforts will be made to complete the mediation within 30 days of the first mediation session. All costs of mediation shall be borne equally by the parties.
- D. All communications, both written and oral, during Phases A and B are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process.
- E. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.

- F. If the Contract Claim is not resolved by mediation, City's action under Paragraph 11.07.C or a denial pursuant to Paragraphs 11.07.C.3 or 11.07.D shall become final and binding 30 days after termination of the mediation unless, within that time period, City or Contractor:
1. elects in writing to invoke any other dispute resolution process provided for in the Supplementary Conditions; or
 2. agrees with the other party to submit the Contract Claim to another dispute resolution process; or
 3. gives written notice to the other party of the intent to submit the Contract Claim to a court of competent jurisdiction as set forth within the Contract Documents.

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice, it will be deemed to have been validly given if delivered:
1. in person, by a commercial courier service or otherwise, if to City, to the duly authorized representative of City identified in the Contract Documents or to City's Project Manager or, if to Contractor, to a member of the firm or to an officer of the corporation for whom it is intended; or
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient.

17.02 *Computation of Time*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day that is a state or federal holiday observed by the City, the next Business Day shall become the last day of the period.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws and Regulations, in equity, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this Paragraph 17.03 will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Limitation of Damages*

- A. With respect to any and all claims, disputes subject to final resolution, and other matters at issue, neither City, nor any of its officers, directors, elected or appointed officials, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project. Further, the Contractor may only claim and the City may only be liable for those damages that are set forth in Subchapter I, Chapter 271 of the Texas

Local Government Code and the City shall not be liable for any consequential damages, exemplary damages or damages for unabsorbed home office overhead.

17.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.
- B. The City has not waived its sovereign immunity except as expressly set forth in Subchapter I, Chapter 271 of the Texas Local Government Code or as expressly waived by other statute.

17.06 *Survival of Obligations*

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and Final Acceptance of the Work or termination of the Contract or of the services of Contractor.

17.07 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

17.08 *Successors and Assigns*

- A. City and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

17.09 *Governing Law*

- A. The Contract shall be construed in accordance with the laws of the State of Texas without regard to conflicts of law principles.

17.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

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SECTION 00 73 00
 SUPPLEMENTARY CONDITIONS
 TO
 GENERAL CONDITIONS

Supplementary Conditions

These Supplementary Conditions modify and supplement Section 00 72 00 - General Conditions, and other provisions of the Contract Documents as indicated below. All provisions of the General Conditions that are modified or supplemented remain in full force and effect as so modified or supplemented. All provisions of the General Conditions which are not so modified or supplemented remain in full force and effect.

Defined Terms

The terms used in these Supplementary Conditions which are defined in the General Conditions have the meaning assigned to them in the General Conditions, unless specifically noted herein.

Modifications and Supplements

The following are instructions that modify or supplement specific paragraphs in the General Conditions and other Contract Documents.

SC-5.01A

Easement limits shown on the Drawing are approximate and were provided to establish a basis for bidding. Upon receiving the final easements descriptions, Contractor shall compare them to the lines shown on the Contract Drawings.

SC-5.01A.1., “Availability of Lands”

The following is a list of known outstanding right-of-way, and/or easements to be acquired, if any as of [\[March 13, 2025\]](#):

Outstanding Right-Of-Way, and/or Easements to Be Acquired

PARCEL NUMBER	OWNER	TARGET DATE OF POSSESSION
0.10 Ac Sanitary Sewer Easement - Lot 1R, Block A Victor Technologies Addition Replat	2800 Airport LLC	May 1, 2025
0.28 Ac Sanitary Sewer Easement – Better Tools Property Plat	University of North Texas	May 1, 2025

The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed, and do not bind the City.

1
 2 If Contractor considers the final easements provided to differ materially from the representations on the
 3 Contract Drawings, Contractor shall within five (5) Business Days and before proceeding with the Work,
 4 notify City in writing associated with the differing easement line locations.

5
 6 **SC-5.01A.2, “Availability of Lands”**

7
 8 **Utilities or obstructions to be removed, adjusted, and/or relocated**

9
 10 The following is list of utilities and/or obstructions that have not been removed, adjusted, and/or relocated
 11 as of *[March 13, 2025]*

12

EXPECTED OWNER	UTILITY AND LOCATION	TARGET DATE OF ADJUSTMENT
NONE		

13 The Contractor understands and agrees that the dates listed above are estimates only, are not guaranteed,
 14 and do not bind the City.

15
 16 **SC-5.03A., “Subsurface and Physical Conditions”**

17 The following are reports of explorations and tests of subsurface conditions at the site of the Work:

18
 19
 20 A *[set of SUE investigation logs sent to the City of Denton by the Texas Department of Transportation]*
 21 Report No. N/A, dated 5/8/23, prepared by *[Lina T. Ramey and Associates, Inc. during the month of April,*
 22 *2023]*, a consultant of the Texas Department of Transportation, providing information on *[subsurface*
 23 *boring logs of underground conduits and facilities within the FM 1515 right-of-way.]*

24
 25 A *[SUE report named “Level ‘A’ Test Holes FM 1515”]* Report No. DEN 24113, dated April 2024,
 26 prepared by *[Teague Nall and Perkins, Inc.]* a consultant of the City, providing additional information on
 27 *[subsurface boring logs of underground conduits and facilities within the FM 1515 right-of-way.]*

28
 29 The following are drawings of physical conditions in or relating to existing surface and subsurface
 30 structures (except Underground Facilities) which are at or contiguous to the site of the Work:
 31 *["None"]*

32
 33 **SC-5.05 A., “Underground Facilities**

34
 35 The following are additional resources for identification of Underground Facilities which are at or
 36 contiguous to the site of the Work, and which are not necessarily shown in the Drawings:
 37 *["None"]*

38
 39 **SC-5.06A., “Hazardous Environmental Conditions at Site”**

40
 41 The following are reports and drawings of existing hazardous environmental conditions known to the City:
 42 *["None"]*

43
 44 **SC-6.02, “Performance, Payment, and Maintenance Bonds”**

45
 46 *The “Contract Price” for Performance, Payment, and Maintenance Bonds will be the same as indicated*
 47 *in Article 3 as listed in the Agreement.*

1 **SC-6.03A., “Certificates of Insurance”**

2
 3 The entities listed below are "additional insureds as their interest may appear" including their respective
 4 officers, directors, agents and employees.

- 5
 6 (1) City
 7 (2) Consultant: *Tetrattech, Inc.*
 8 (3) Other: None
 9

10 **SC-6.04A., “Contractor’s Insurance”**

11
 12 The limits of liability for the insurance required by Paragraph GC-6.04 shall provide the following
 13 coverages for not less than the following amounts or greater where required by laws and regulations:
 14

15 **6.04A. Workers' Compensation, under Paragraph GC-6.04A.**

- 16
 17 *Statutory limits*
 18 *Employer's liability*
 19 *\$500,000 each accident/occurrence*
 20 *\$500,000 Disease - each employee*
 21 *\$500,000 Disease - policy limit*
 22

23 **SC-6.04B., “Contractor’s Insurance”**

24
 25 **6.04B. Commercial General Liability, under Paragraph GC-6.04B. Contractor's Liability Insurance**
 26 **under Paragraph GC-6.04B., which shall be on a per project basis covering the Contractor with**
 27 **minimum limits of:**

- 28
 29 *\$1,000,000 each occurrence*
 30 *\$2,000,000 aggregate limit*
 31

32 The policy must have an endorsement (Amendment – Aggregate Limits of Insurance) making the
 33 General Aggregate Limits apply separately to each job site.
 34

35 The Commercial General Liability Insurance policies shall provide “X”, “C”, and “U” coverage’s.
 36 Verification of such coverage must be shown in the Remarks Article of the Certificate of Insurance.
 37

38 **SC 6.04C., “Contractor’s Insurance”**

39 **6.04C. Automobile Liability, under Paragraph GC-6.04C. Contractor’s Liability Insurance under**
 40 **Paragraph GC-6.04C., which shall be in an amount not less than the following amounts:**

- 41
 42 (1) **Automobile Liability** - a commercial business policy shall provide coverage on "Any Auto",
 43 defined as autos owned, hired and non-owned.
 44
 45 *\$1,000,000 each accident on a combined single limit basis.*
 46

47 **SC-6.04D., “Contractor’s Insurance”**

48
 49 The Contractor’s construction activities will require its employees, agents, subcontractors, equipment, and
 50 material deliveries to cross railroad properties and tracks, or perform work within 25 feet of the center line
 51 of tracks [*“None”*].
 52

1 The Contractor shall conduct its operations on railroad properties in such a manner as not to interfere with,
 2 hinder, or obstruct the railroad company in any manner whatsoever in the use or operation of its/their trains
 3 or other property. Such operations on railroad properties may require that Contractor to execute a “Right of
 4 Entry Agreement” with the particular railroad company or companies involved, and to this end the
 5 Contractor should satisfy itself as to the requirements of each railroad company and be prepared to execute
 6 the right-of-entry (if any) required by a railroad company. The requirements specified herein likewise relate
 7 to the Contractor’s use of private and/or construction access roads crossing said railroad company’s
 8 properties.
 9

10 The Contractual Liability coverage required by Paragraph 5.04D of the General Conditions shall provide
 11 coverage for not less than the following amounts, issued by companies satisfactory to the City and to the
 12 Railroad Company for a term that continues for so long as the Contractor’s operations and work cross,
 13 occupy, or touch railroad property:

- | | | |
|----|---|--|
| 14 | | |
| 15 | (1) General Aggregate: | <i>N/A</i> |
| 16 | | |
| 17 | (2) Each Occurrence: | <i>N/A</i> |
| 18 | | |
| 19 | <u> </u> <i>Required for this Contract</i> | <u> x </u> <i>Not required for this Contract</i> |
| 20 | | |

21 With respect to the above outlined insurance requirements, the following shall govern:

- 22
- 23 1. Where a single railroad company is involved, the Contractor shall provide one insurance policy in
 24 the name of the railroad company. However, if more than one grade separation or at-grade
 25 crossing is affected by the Project at entirely separate locations on the line or lines of the same
 26 railroad company, separate coverage may be required, each in the amount stated above.
 27
- 28 2. Where more than one railroad company is operating on the same right-of-way or where several
 29 railroad companies are involved and operated on their own separate rights-of-way, the Contractor
 30 may be required to provide separate insurance policies in the name of each railroad company.
 31
- 32 3. If, in addition to a grade separation or an at-grade crossing, other work or activity is proposed on a
 33 railroad company’s right-of-way at a location entirely separate from the grade separation or at-
 34 grade crossing, insurance coverage for this work must be included in the policy covering the grade
 35 separation.
 36
- 37 4. If no grade separation is involved but other work is proposed on a railroad company’s right-of-
 38 way, all such other work may be covered in a single policy for that railroad, even though the work
 39 may be at two or more separate locations.
 40

41 No work or activities on a railroad company’s property to be performed by the Contractor shall be
 42 commenced until the Contractor has furnished the City with an original policy or policies of the insurance
 43 for each railroad company named, as required above. All such insurance must be approved by the City and
 44 each affected Railroad Company prior to the Contractor’s beginning work.
 45

46 The insurance specified above must be carried until all Work to be performed on the railroad right-of-way
 47 has been completed and the grade crossing, if any, is no longer used by the Contractor. In addition,
 48 insurance must be carried during all maintenance and/or repair work performed in the railroad right-of-way.
 49 Such insurance must name the railroad company as the insured, together with any tenant or lessee of the
 50 railroad company operating over tracks involved in the Project.
 51

52 **SC 6.04E., “Contractor’s Insurance”**

53
 54 6.04E. Environmental Impairment/Pollution

1
 2 Environmental Impairment/Pollution Insurance to include coverage for the handling, receiving, dispensing,
 3 removal, storage, testing, transportation, disposal, discharge, dispersal release or escape of any hazardous
 4 material into or upon land, or any structure on land, the atmosphere or any watercourse or body of water,
 5 including ground water, with a minimum combined bodily injury (including death) and property damage
 6 limit of *\$1,000,000* per occurrence to be obtained upon substantial completion and acceptance of facility by
 7 the City.

8
 9 **SC-7.08C., “Concerning Subcontractors and Suppliers”**

10
 11 The following subcontractors shall be required to be utilized by the Contractor for specific portions of the
 12 Work as indicated below:

13
 14 **Required Subcontractors**

SUBCONTRACTOR COMPANY NAME	DESCRIPTION OF WORK TO BE PERFORMED
----------------------------	-------------------------------------

15
 16 None

17
 18 **SC-7.11., “Permits and Utilities”**

19
 20 **SC-7.11A., “Contractor obtained permits and licenses”**

21
 22 The following are known permits and/or licenses required by the Contract to be acquired by the Contractor:
 23 *“None”*.

24
 25 **SC-7.11B. “City obtained permits and licenses”**

26
 27 The following are known permits and/or licenses required by the Contract to be acquired by the City:

- 28
 29 *1. TxDOT utility permit to be in and cross the Right-of Way of FM 1515*

30
 31 **SC-7.11C. “Outstanding permits and licenses”**

32
 33 The following is a list of known outstanding permits and/or licenses to be acquired, if any as of *[March 13,*
 34 *2025]*:

35
 36 **Outstanding Permits and/or Licenses to Be Acquired**

OWNER	PERMIT OR LICENSE AND LOCATION	TARGET DATE OF POSSESSION
-------	--------------------------------	---------------------------

37
 38 TXDOT Utility Permit U00023607, pending 5/1/2025

39
 40 **SC-7.24B., “Title VI, Civil Rights Act of 1964 as amended”**

41
 42 During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest
 43 (hereinafter referred to as the "Contractor") agrees as follows:

- 44
 45 1. **Compliance with Regulations:** The Contractor shall comply with the Regulation relative to
 nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter,
 “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time,
 (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part
 of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall
 not discriminate on the grounds of race, color, or national origin, in the selection and retention of

1 subcontractors, including procurements of materials and leases of equipment. The Contractor shall not
 2 participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the
 3 Regulations, including employment practices when the contract covers a program set forth in
 4 Appendix B of the Regulations.
 5

6 **3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all
 7 solicitations either by competitive bidding or negotiation made by the contractor for work to be
 8 performed under a subcontract, including procurements of materials or leases of equipment, each
 9 potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations
 10 under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or
 11 national origin.
 12

13 **4. Information and Reports:** The Contractor shall provide all information and reports required by the
 14 Regulations or directives issued pursuant thereto, and shall permit access to its books, records,
 15 accounts, other sources of information and its facilities as may be determined by City or the Texas
 16 Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders
 17 and instructions. Where any information required of a contractor is in the exclusive possession of
 18 another who fails or refuses to furnish this information the contractor shall so certify to the City, or the
 19 Texas Department of Transportation, as appropriate, and shall set forth what efforts it has made to
 20 obtain the information.
 21

22 **5. Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the
 23 nondiscrimination provisions of this Contract, City shall impose such contract sanctions as it or the
 24 Texas Department of Transportation may determine to be appropriate, including, but not limited to:
 25

- 26 a. withholding of payments to the Contractor under the Contract until the Contractor
- 27 complies, and/or
- 28 b. cancellation, termination or suspension of the Contract, in whole or in part.
 29

30 **6. Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through
 31 (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt
 32 by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with
 33 respect to any subcontract or procurement as City or the Texas Department of Transportation may
 34 direct as a means of enforcing such provisions including sanctions for non-compliance: Provided,
 35 however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a
 36 subcontractor or supplier as a result of such direction, the contractor may request City to enter into
 37 such litigation to protect the interests of City, and, in addition, the contractor may request the United
 38 States to enter into such litigation to protect the interests of the United States.
 39

40 Additional Title VI requirements can be found in the Appendix.

41
 42 **SC-8.02., “Coordination”**

43
 44 The individuals or entities listed below have contracts with the City for the performance of other work at
 45 the Site:
 46

Vendor	Scope of Work	Coordination Authority
<i>None</i>		

47
 48 **SC-9.01, “Communications to Contractor”**

49
 50 *No special communication requirements for this contract.*

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SC-10.01B., “City’s Project Manager”

The City’s Project Manager for this Contract is *Shawn Messick*, or his/her successor pursuant to **written notification from the City Engineer.**

SC-13.02B., “Tests and Inspections”

“None”

SC-14.01G, “Reduction in Payment”

Add Paragraph 14.01G.3:

- 3. *City may reduce payments to the Contractor, if the number of Days that have passed after the date listed on the Notice to Proceed exceeds the Contract Time for Substantial Completion.*

SC-16.01C.1, “Methods and Procedures”

“None”

SC – 17.01, “Documents”

Any documents submitted to the City in electronic format shall be considered equivalent to an original of such document.

SC – 19.01 “BUY AMERICA’ Requirements”

Notice to Contractors and Suppliers

The project requires certification from the contractor’s suppliers that all manufacturing processes for steel and iron materials or for the application of coatings (epoxy, galvanizing, painting or any other coating that protects or enhances the value of the steel or iron metal) to these materials occurred in the United States of America. For the purposes of the certifications, manufacturing processes are defined as all processes required to change the raw ore or scrap metal into the finished in-place steel or iron product. The successful contractor will be required to complete the Texas Department of Transportation Material Statement Certification Form 1818 for each appropriate shop drawing submittal. TxDOT Form 1818 is included in the Appendix of this project manual.

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

1
2

SECTION 00 35 13
CONFLICT OF INTEREST AFFIDAVIT

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).

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.

Mountain Cascade of Texas, 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

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


Signature of vendor doing business with the governmental entity

04/23/2025

Date

3

END OF SECTION

Certificate Of Completion

Envelope Id: 365FF66D-AE07-46DF-B662-2A70D7555F15
 Subject: Please DocuSign: City Council Contract 7968-007 FM 1515 Utilites Relocation
 Source Envelope:
 Document Pages: 104
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Cori Power
 901B Texas Street
 Denton, TX 76209
 cori.power@cityofdenton.com
 IP Address: 198.49.140.104

Record Tracking

Status: Original
 6/10/2025 3:49:03 PM

Holder: Cori Power
 cori.power@cityofdenton.com

Location: DocuSign

Signer Events

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

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

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

Andrew McCulloch
 AMcCulloch@mountaincascade.com
 Vice-President
 Harber Co.Inc. dba Mountain Cascade of Nevada
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Accepted: 6/11/2025 3:41:11 PM
 ID: adf446cc-44c4-4ab4-82cb-759778ea4fc5

Signature

Completed
 Using IP Address: 198.49.140.104


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


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


 Signature Adoption: Pre-selected Style
 Using IP Address: 32.132.177.214

Timestamp

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 Signed: 6/10/2025 4:05:46 PM

Sent: 6/10/2025 4:05:49 PM
 Viewed: 6/10/2025 4:27:08 PM
 Signed: 6/10/2025 4:27:47 PM

Sent: 6/10/2025 4:27:50 PM
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 Signed: 6/11/2025 3:39:13 PM

Sent: 6/11/2025 3:39:16 PM
 Viewed: 6/11/2025 3:41:11 PM
 Signed: 6/11/2025 3:44:52 PM

Signer Events	Signature	Timestamp
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Seth Garcia
 Seth.Garcia@cityofdenton.com
 Director of Capital Projects
 Security Level: Email, Account Authentication (None)

Signed by:

 A13701F6BC954FC...
 Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.10

Sent: 6/11/2025 3:44:55 PM
 Viewed: 6/11/2025 3:46:06 PM
 Signed: 6/11/2025 3:48:26 PM

Electronic Record and Signature Disclosure:
 Accepted: 6/11/2025 3:46:06 PM
 ID: 73211727-e8ec-4a7f-a037-7b37c58328f1

Cori Power
 cori.power@cityofdenton.com
 Purchasing Supervisor
 City of Denton
 Security Level: Email, Account Authentication (None)

Completed
 Using IP Address: 198.49.140.10

Sent: 6/11/2025 3:48:29 PM
 Viewed: 6/17/2025 2:46:23 PM
 Signed: 6/17/2025 2:46:39 PM

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

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

Sent: 6/17/2025 2:46:43 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
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Procurement Administration Supervisor
 City of Denton
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 6/10/2025 4:05:49 PM

Carbon Copy Events	Status	Timestamp
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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: 6/17/2025 2:46:42 PM
Viewed: 6/17/2025 3:24:41 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

City Secretary Office
citysecretary@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Shawn Messick
Shawn.Messick@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Accepted: 6/6/2025 11:39:10 AM
ID: 2a34c5be-c530-4c99-936e-fe85b701d3ec

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	6/10/2025 4:05:20 PM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

To contact us by email send messages to: purchasing@cityofdenton.com

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1500, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Enverus, Inc., for load and renewable forecasting services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date. (RFP 8800 - awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$255,000.00). The Public Utilities Board recommends approval (5 - 0).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 2025

SUBJECT

Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Enverus, Inc., for load and renewable forecasting services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date. (RFP 8800 – awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$255,000.00). [The Public Utilities Board recommends approval \(5 - 0\).](#)

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Not Applicable.

INFORMATION/BACKGROUND

Denton Municipal Electric (DME) is highly dependent on forecasting services to manage electric demand. Load forecasting services are required for DME to manage short-term and long-term load consumption. DME’s growing renewable generation portfolio adds considerable dependency on accurate wind and solar forecasting to manage contracted renewable assets. DME is seeking approval for forecasting services, which include load forecasting, wind forecasting, and solar forecasting.

The major functions of the forecasting solution(s) are as follows:

1. Load Forecasting
 - a. Short Term (1 Day)
 - b. Mid Term (15 Day)
 - c. Long Term (1-5 years)
2. Wind Forecasting
 - a. Intra-Day Forecast
 - b. Short Term Forecast (2-7 Days)
3. Solar Forecasting
 - a. Intra-Day Forecast
 - b. Short Term Forecast (2-7 Days)

Project Description	Estimated 3-Year Expenditure
Three (3) Year Renewable Forecasting	\$231,817.50
Contingency (10%)	23,182.50
Total	\$255,000.00

If approved, staff will utilize this solution to support effective energy portfolio management operations, increase efficiencies, increase data collection, increase staff performance, and provide management with reporting data.

Requests for Proposals were sent to 541 prospective suppliers of these items, including three (3) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Seven (7) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Based upon this evaluation, Enverus, Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	208 - Computer Software for Microcomputers (Preprogrammed)
Notifications sent for Solicitation sent in IonWave:	541
Number of Suppliers that viewed Solicitation in IonWave:	43
HUB-Historically Underutilized Business Invitations sent out:	72
SBE-Small Business Enterprise Invitations sent out:	194
Responses from Solicitation:	7

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 25, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award a contract with Enverus, Inc., for load and renewable forecasting services for Denton Municipal Electric, in a three (3) year not-to-exceed amount of \$255,000.

PRINCIPAL PLACE(S) OF BUSINESS

Enverus, Inc.
Austin, TX

ESTIMATED SCHEDULE OF PROJECT

This is a three (3) year contract.

FISCAL INFORMATION

These services will be funded from Denton Municipal Electric Power Supply, Energy Management Division budget account 600003.7804.5750A. Requisition #171241 has been entered into the Purchasing software system in the amount of \$75,000. The budgeted amount for this item is \$255,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: Shane Wallin, 940-349-7521.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8800 - Pricing Evaluation for Load & Renewable Forecasting Services

LOAD FORECASTING SERVICE							
Respondents Business Name:		Enverus, Inc.	Meteologica S.A.	Amperon Holdings, Inc.	Yes Energy LLC	Innowatts, Inc.	United Electric Systems Inc
Principal Place of Business (City and State):		Austin, TX	Madrid, Spain	Houston, TX	Boulder, CO	Houston, TX	Allentown, PA
Three (3) Contract Total:		\$132,467.14	\$71,250.00	\$144,000.00	\$126,000.00	\$118,534.00	\$256,500.00
Item #	Scoring Criteria						
1	Delivery/Project Schedule - 5%	4.75	4.00	4.50	3.00	2.50	3.00
2	Compliance with Specifications - 30%	30.00	12.00	24.00	18.00	13.50	16.50
3	Probable Performance - 25%	25.00	12.50	18.75	17.50	7.50	11.25
4	Price, Total Cost of Ownership - 40%	21.51	40.00	19.79	22.62	24.04	11.11
Total Score:		81.26	68.50	67.04	61.12	47.54	41.86

WIND OUTPUT RENEWABLE FORECASTING SERVICE							
Respondents Business Name:		Enverus, Inc.	Amperon Holdings, Inc.	Innowatts, Inc.	Meteologica S.A.	Vaisala Inc.	United Electric Systems Inc
Principal Place of Business (City and State):		Austin, TX	Houston, TX	Houston, TX	Madrid, Spain	Louisville, CO	Allentown, PA
Three (3) Contract Total:		\$49,675.18	\$36,000.00	\$22,310.00	\$39,000.00	\$54,000.00	\$104,500.00
Item #	Scoring Criteria						
1	Delivery/Project Schedule - 5%	4.75	4.25	3.00	3.50	4.25	3.00
2	Compliance with Specifications - 30%	28.50	21.00	9.00	19.50	19.50	19.50
3	Probable Performance - 25%	23.75	17.50	8.75	15.00	18.75	12.50
4	Price, Total Cost of Ownership - 40%	17.96	24.79	40.00	22.37	16.53	8.54
Total Score:		74.96	67.54	60.75	60.37	59.03	43.54

SOLAR OURPUT RENEWABLE FORECASTING SERVICE							
Respondents Business Name:		Enverus, Inc.	Innowatts, Inc.	Amperon Holdings, Inc.	Vaisala Inc.	Meteologica S.A.	United Electric Systems Inc
Principal Place of Business (City and State):		Austin, TX	Houston, TX	Houston, TX	Louisville, CO	Madrid, Spain	Allentown, PA
Three (3) Contract Total:		\$49,675.18	\$23,310.00	\$54,000.00	\$54,000.00	\$59,850.00	\$123,500.00
Item #	Scoring Criteria						
1	Delivery/Project Schedule - 5%	4.50	2.75	4.25	4.25	4.00	3.25
2	Compliance with Specifications - 30%	30.00	10.50	21.00	21.00	24.00	21.00
3	Probable Performance - 25%	23.75	8.75	18.75	18.75	17.50	12.50
4	Price, Total Cost of Ownership - 40%	17.96	40.00	17.27	17.27	15.58	7.55
Total Score:		76.21	62.00	61.27	61.27	61.08	44.3

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ENVERUS, INC., FOR LOAD AND RENEWABLE FORECASTING SERVICES FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE. (RFP 8800 – AWARDED TO ENVERUS, INC., IN THE THREE (3) YEAR NOT-TO-EXCEED AMOUNT OF \$255,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for load and renewable forecasting services for Denton Municipal Electric; 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.

<u>RFP</u> <u>NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8800	Enverus, Inc.	\$255,000.00

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 _____ 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.

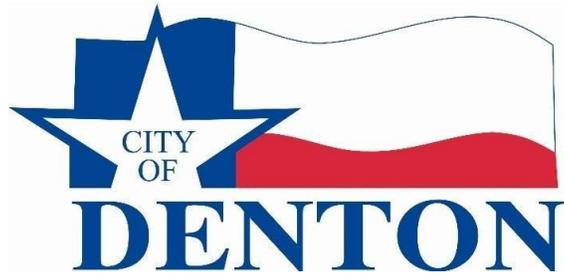
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

RFP	8800
File Name	Load & Renewable Forecasting Services
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND ENVERUS, INC.
(Contract #8800)**

THIS CONTRACT (“Contract”) is made and entered into this date _____, by and between ENVERUS, INC. a Texas corporation, whose address 2901 Via Fortuna #100, Austin, Texas 78746, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City”, to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products and/or services in accordance with the City’s RFP# 8800 Load & Renewable Forecasting 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, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton’s RFP 8800 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) Insurance Requirements (**Exhibit “E”**);
- (f) Contractor’s Proposal (“Contractor’s Offer”) (**Exhibit “F”**);
- (g) Contractor’s Order Form and Main Subscription Agreement (Exhibit “G”)
- (h) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “H”**)

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” 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 may terminate this Contract immediately without any further liability if the City determines, in its sole judgment, that this Contract meets the requirements under Chapter 2275 of the Texas Government Code, 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.

CONTRACTOR

Signed by:
BY: 
AUTHORIZED SIGNATURE

Printed Name: Shawn Shillington

Title: General Counsel

5124230208
PHONE NUMBER

shawn.shillington@enverus.com
EMAIL ADDRESS

2025-1345791
TEXAS ETHICS COMMISSION
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: 
4B070831B4AA438...

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

Signed by:

Antonio Puente, Jr.
SIGNATURE PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

Exhibit A **Special Terms and Conditions**

1. Total Contract Amount

The contract total for RFP# 8800 Load & Renewable Forecasting Services shall not exceed \$255,000. Pricing shall be per Exhibit F attached.

2. The Quantities

The quantities indicated on Exhibit F are estimates based upon the best available information. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms

The contract term will be three (3) years, effective from date of award or notice to proceed as determined by the City Purchasing Department. At the sole option of the City, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Price Escalation and De-escalation

On Contractor'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. Contractor 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. Contractor must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City 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 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 approval and/or cancellation.

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

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

Exhibit B
City of Denton's RFP 8800 File

On File at the Office of the Purchasing Agent

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and Enverus, Inc. 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 Contractor's proposal response, invoice, or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

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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 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 Contract 8800

applicable, the tax identification number on the invoice must exactly match the information in the Contractor'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 Contract 8800

electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have Contract 8800

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 if the Contractor 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. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors (“Subcontractor”) in a DBE/MBE/WBE agreed-to plan (the “Plan”), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor’s Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

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

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Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights

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under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. DEFAULT:

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

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 thirty (30) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such thirty (30) 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

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available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, within thirty (30) days from termination any unpaid fees for the full contract term. 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 51. 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 divided by 3 (3-year contract term) and then divided by 365 (total number of days in a year) 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 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. The City reserves the right to add insurance during the contract term.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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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 attention of its Chief Legal Officer, at Enverus, Inc., 2901 Via Fortuna #100, Austin, Texas 78746, and emailed to shawn.shillington@enverus.com, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

40. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

42. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or
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any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: The Contractor agrees to comply with the conflict of interest provisions of the City 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 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.

44. 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.

45. 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.

46. 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 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, 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.

47. 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 Contractor shall notify the City's Purchasing Manager, in writing, of a company name, Contract 8800

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.

48. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

49. 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.

50. 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.

51. 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

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agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

C. The parties shall not be required to submit to binding arbitration.

52. 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.

53. 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.

54. 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 the City Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the Denton City Manager or their authorized designee.

55. 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.

56. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City 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 Contractor 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.

57. 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.

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

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

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

ii. “Cost of components” means -

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

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

associated with the manufacture of the end product.

iii. "Domestic end product" means-

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

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

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

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

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

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

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

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

59. RIGHT TO INFORMATION: The City 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.

60. 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 Contractor.

61. 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).

62. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor 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.

63. 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

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coverage and standard Workers' Compensation insurance coverage. Contractor shall ensure compliance with all federal and State tax laws and withholding requirements. The City 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 and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

64. 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.

65. 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.

66. 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 Procurement Manager in writing of any such damage within one (1) calendar day.

67. FORCE MAJEURE: The City, 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. 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 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.

68. 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.

69. 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 any immunities from Contract 8800

suit or from liability that the City may have by operation of law.

70. 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 to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

71. 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.

72. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

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

The Contractor shall:

1. Log onto the State Ethics Commission Website at :
https://www.ethics.state.tx.us/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 8800 – Form 1295)

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

Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued to a company incorporated in the State of Texas and in U.S. Respective jurisdiction shall be **A+ or better**.
- No deductibles or self-insured retentions shall be declared in the policies. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officers, agents, employees and volunteers, the contractor's subcontractors and their employees, assets and related investments, claims and litigation and defense expenses.
- Insurance policies shall be endorsed to provide the following:
 - o The City shall be named as an additional insured under the City of Denton, its officers, agents,

EO committees and volunteers.

- o Commercial insurance is not to be other insurance available to the additional insured and related entities covered under the policy and this insurance policy shall be the insured's primary coverage. It is to be the insured's responsibility to ensure that the insured's primary coverage does not increase the insurer's risk.
- o Provide a copy of the Surrogation in favor of the City of Denver, its committees, boards, 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 the required insurance be provided under a contract, the contract shall contain a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver. The contract shall also contain a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver.

- Should the required insurance be provided under a contract, the contract shall include a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver. The contract shall also include a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver.

- Should the required insurance be provided under a contract, the contract shall include a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver. The contract shall also include a clause that, in the event of a breach of contract, the contract shall be voidable at the option of the City of Denver.

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:

1. **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 \$2,000,000.00 per claim.

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.

Exhibit F

		Enverus, Inc	
		Total Price	\$231,817.50
Line #	Description	Unit	
SECTION 1 -LOAD FORECASTING SERVICE			
1	LOAD FORECASTING SERVICE -Total Contract Price (3 Year cost)		\$75,000.00
SECTION 2- WIND OUTPUT RENEWABLE FORECASTING SERVICE			
2	WIND OUTPUT RENEWABLE FORECASTING SERVICE -Total Contract Price (3 Year cost)		\$77,250.00
SECTION 3 - SOLAR OUTPUT RENEWABLE FORECASTING SERVICE			
3	SOLAR OUTPUT RENEWABLE FORECASTING SERVICE -Total Contract Price (3 Year cost)		\$79,567.50
4	SECTION 4 (ALTERNATE) -PACKAGE PRICING FOR MULTIPLE OR ADDITIONAL SERVICES - Indicate package options in description. Supplier must also offer separate pricing above in order to be considered.		\$231,817.50



ORDER FORM

Enverus is a global company with offices in the United States, Canada, Europe, and Asia. It provides products and services through Enverus, Inc., a corporation registered in Texas and headquartered in Austin, and through related entities operating in certain other jurisdictions. References to “we”, “our”, “us”, or “Enverus” are to the Enverus entity or entities providing products or services to **City of Denton, TX** (“Subscriber”). Subscriber and its Users hereby agree to this Order Form, the Main Subscription Agreement, and any other attachments hereto. Subscriber: (a) has read and understands the entire Agreement; (b) is authorized and intends to form a legally binding contract with Enverus; (c) will only use Enverus Products or Enverus Data for Internal Use and will not use Enverus Products or Enverus Data to produce or develop any commercial product or software; (d) may employ Artificial Intelligence (“AI”) tools such as large language models, neural networks, and similar technology, to enhance its utilization of the Enverus Products or analyze/interpret Enverus Data for Internal Use, so long as such use is confined to a Subscriber-controlled internal instance with stringent controls preventing external access; (e) will not upload Enverus Data or Product output to any third-party platform or software (including AI tools) that allows such data to be accessible by, or utilizes such data for the benefit of, third-parties, including the prohibition of using such data for the training or enrichment of any third-party platforms or software; (f) agrees that the Agreement, whether printed or electronic, constitutes a “writing” under any applicable law; (g) understands that the Agreement includes **WARRANTY DISCLAIMERS, INDEMNIFICATION FOR NEGLIGENCE, LIMITATION OF LIABILITY, AND WAIVER OF JURY TRIAL**, and (h) will cause all Users to abide by the Agreement.

PRICING INFORMATION IS CONFIDENTIAL TO ENVERUS AND MAY NOT BE DISCLOSED

Enverus may adjust the start date and end date, without increasing the total price or changing the term length, based on the date Enverus receives this executed Order Form and activates Enverus Products. If Subscriber acquires another Enverus customer or its affiliate (whether by merger, stock purchase, asset purchase, or otherwise), Subscriber’s fees may be increased to account for the combined entity. If resetting the start date, Enverus shall credit Subscriber for paid and unused subscription fees.

CONTACT INFORMATION

SUBSCRIBER BILLING NAME	BILLING ADDRESS	BILLING CONTACT NAME	BILLING EMAIL ADDRESS
City of Denton, TX	215 E McKinney St Denton Texas 76201-4299 United States	Shane Wallin	Shane.Wallin@cityofdenton.com and ap@cityofdenton.com

SALESPERSON	EMAIL	BILLING TERM	PAYMENT TERM
Colin Groves	colin.groves@enverus.com	Annual	Net 30

TERM

Recurring Products and Services

Year 1

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/9/2025	9/8/2026	Enverus P&R - CRCL Renewable Generation Forecasts - 1 ISO	1.00	9

9/9/2025	9/8/2026	Enverus P&R - CRCL Renewable Generation Forecasts - ERCOT	1.00	9
9/9/2025	9/8/2026	Enverus Foundations - Power & Renewables	1.00	9
9/9/2025	9/8/2026	Enverus P&R - ISO Net Demand Forecasts	1.00	9
9/9/2025	9/8/2026	Enverus P&R - ISO Net Demand Forecasts - ERCOT	1.00	9
9/9/2025	9/8/2026	Enverus Foundations - Power & Renewables	1.00	9
9/9/2025	9/8/2026	Enverus P&R - Fused Demand Forecasts	2.00	9
Year 1 TOTAL:				USD 75,000.00

Year 2

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/9/2026	9/8/2027	Enverus P&R - CRCL Renewable Generation Forecasts - 1 ISO	1.00	9
9/9/2026	9/8/2027	Enverus P&R - CRCL Renewable Generation Forecasts - ERCOT	1.00	9
9/9/2026	9/8/2027	Enverus Foundations - Power & Renewables	1.00	9
9/9/2026	9/8/2027	Enverus P&R - ISO Net Demand Forecasts	1.00	9
9/9/2026	9/8/2027	Enverus P&R - ISO Net Demand Forecasts - ERCOT	1.00	9
9/9/2026	9/8/2027	Enverus Foundations - Power & Renewables	1.00	9
9/9/2026	9/8/2027	Enverus P&R - Fused Demand Forecasts	2.00	9
Year 2 TOTAL:				USD 77,250.00

Year 3

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/9/2027	9/8/2028	Enverus P&R - CRCL Renewable Generation Forecasts - 1 ISO	1.00	9
9/9/2027	9/8/2028	Enverus P&R - CRCL Renewable Generation Forecasts - ERCOT	1.00	9
9/9/2027	9/8/2028	Enverus Foundations - Power & Renewables	1.00	9
9/9/2027	9/8/2028	Enverus P&R - ISO Net Demand Forecasts	1.00	9
9/9/2027	9/8/2028	Enverus P&R - ISO Net Demand Forecasts - ERCOT	1.00	9
9/9/2027	9/8/2028	Enverus Foundations - Power & Renewables	1.00	9
9/9/2027	9/8/2028	Enverus P&R - Fused Demand Forecasts	2.00	9
Year 3 TOTAL:				USD 79,567.50

AUTHORIZED SIGNATURES

City of Denton, TX

Enverus

Signed by: 

Signature: _____

Signature: _____

Name (Print): _____

Name (Print): Shawn M. Shillington

Title: _____

Title: General Counsel

Date: _____

Date: 8/5/2025

Subscriber Billing and Notice Information

Enverus Notice Information

Name: Accounts Payable Shane Wallin

Name: Shawn M. Shillington

Address: _____

Address: 2901 Via Fortuna Building 6, Suite 100, Austin, TX, 78746

Phone: 940-349-7521

Phone: (512) 477-9200

Email: accountspayable@cityofdenton.com.
shane.wallin@cityofdenton.com

Email: shawn.shillington@enverus.com

MAIN SUBSCRIPTION AGREEMENT

1. Product Access. During the Term and subject to Subscriber's compliance with this Agreement, Enverus grants Subscriber a limited, non-exclusive, non-transferable, non-sublicensable, revocable license for Users to use Enverus Products solely for Internal Use. Products shall not be shared with affiliates or any third parties unless otherwise agreed to by Enverus in writing. Additional Users or Products may be added pursuant to an email submitted or confirmed by Subscriber. The Products are subject to usage limits specified in the Order Form and Documentation. If Subscriber exceeds usage limits, Subscriber will execute an Order Form for additional quantities of the applicable Products promptly upon Enverus' request and/or pay any invoice for excess usage in accordance with the "Invoicing and Payment" section below. Enverus may suspend or terminate access to all Enverus Products if Subscriber or any User is suspected of violating this Agreement.

2. Internal Use.

- a. As used herein, "Internal Use" means ordinary use for internal business purposes solely for the benefit of Subscriber (not including affiliates unless specified on the applicable Order Form). Upon request from Enverus, Subscriber shall demonstrate and discuss the scope of such use with Enverus.
- b. If Subscriber uses Enverus Products or Enverus Data to create projects, designs, reports, or other documents that are accessible by any third party, then:
 - i. Any included Enverus Data shall be limited to individual data points in text (not a database).
 - ii. Any included images or tables based on Enverus Data must be static image files (e.g., pdf or jpeg, not xls or csv) that do not display specific data points and from which it is not possible to reverse engineer, extract, or manipulate such data.
 - iii. Any such projects, designs, reports, or other documents may be provided to third parties only on an ad-hoc, asynchronous basis (not as part of a regular distribution, software product, or webpage and not updated in real-time or in accordance with a regular schedule) in a manner that is not capable of use substantially as a substitute for the Enverus Data or Products.
 - iv. Subscriber shall attribute Enverus by prominently including "Source: Enverus" and shall provide Enverus a copy upon request.
- c. "Internal Use" does not include the following and Subscriber shall not and shall not permit or authorize any third party to:
 - i. Extend any warranties on behalf of Enverus or imply that Enverus is responsible for reliability, accuracy, completeness, or currency of any information.
 - ii. Provide any third party with packages or summaries of Enverus Data or any material marked "Confidential" or "Not for distribution."
 - iii. Use Enverus Products, Enverus Data, or any Enverus API other than for the Internal Use or sell, lease, license, sublicense, rent, loan, share, pledge, or otherwise transfer, with or without consideration, all or any part of Enverus Products or Enverus Data or permit third parties or Subscriber personnel that are not Users to benefit from them, including a timesharing, rental, outsourcing, service bureau, networking, hosted service, or other arrangement.
 - iv. Use Enverus Products, Enverus Data, or any Enverus API (1) to produce a commercial product or develop software in any form; (2) to build, develop, or provide any third parties or Subscriber personnel that are not Users with any software, code, scripts, models, interpretations, training data, apps, platforms, exchanges, websites, widgets, plugins or other tools; or (3) modify, copy, or create derivative works, packages, or summaries of any Products, Enverus Data, or Enverus API or any part, feature, function or user interface thereof.

- v. Reverse engineer, decompile, decrypt, or disassemble Products, or attempt to de-aggregate or de-anonymize any data or information that has been aggregated or anonymized, remove proprietary notices or labels, use any robot, spider, or other automated method (other than an Enverus API) to access, download, or reproduce Enverus Data, or use Products in a way that causes a denial of service for other users or interferes with or unduly burdens performance.
- vi. Disclose or permit any third party to use confidential information of Enverus, including (i) Enverus Data, (ii) Documentation or technical information related to Enverus Products, and (iii) the provisions of this Agreement (including pricing).
- d. Subscriber is authorized to employ Artificial Intelligence (“AI”) tools such as large language models, neural networks, and similar technology, to enhance its utilization of the Enverus Products or analyze/interpret Enverus Data for Internal Use. This usage shall comply with Subscriber’s obligations under this Agreement, including maintaining the confidentiality of the Enverus Products and Enverus Data. Subscriber expressly agrees that:
 - i. *AI Platform Uploads.* Subscriber may upload Enverus Data or Product output to third-party or external AI platforms (e.g., Microsoft Copilot). However, Subscriber represents and warrants that such uploads are only to Subscriber-controlled internal instances and that such platforms do not utilize the uploaded Enverus Data or Enverus Product output for AI enrichment or training purposes or make such data otherwise available or accessible to any third parties.
 - ii. *Prohibition on Commercial Product Development.* Subscriber shall not use any AI in conjunction with Enverus Data or Enverus Product output to create or develop any products or services intended for commercial sale. This includes, but is not limited to, software, derivative datasets, or consulting deliverables.

3. Subscriber Responsibilities. Subscriber is responsible for all activities of its Users, obtaining and maintaining any Subscriber equipment and any ancillary services needed to connect to, access, or use Enverus Products. Subscriber shall: (a) be responsible for Users’ compliance with this Agreement; (b) be responsible for the accuracy, quality and legality of Subscriber Data, the means by which Subscriber acquired Subscriber Data, Subscriber’s use of Subscriber Data with Enverus Products, and the interoperation of any Non Enverus Applications with which Subscriber uses Products; (c) use commercially reasonable efforts to prevent unauthorized access to or use of Products, and notify Enverus promptly of any such unauthorized access or use; (d) use Products only in accordance with this Agreement and applicable laws and government regulations

4. Fees and Payment.

- a. *Fees.* Subscriber will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Products purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.
- b. *Invoicing and Payment.* Fees will be invoiced in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 30 days from receipt of the invoice. Subscriber is responsible for providing complete and accurate billing and contact information to Enverus and notifying Enverus of any changes to such information.
- c. *Overdue Charges.* If any invoiced amount is not received by Enverus by the due date, then without limiting Enverus’ rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.
- d. *Suspension of Product Access.* If any charge owing by Subscriber is 30 days or more overdue, Enverus may, without limiting its other rights and remedies, suspend access to all Enverus Products until such amounts are paid in full, provided Enverus has given Subscriber at least 10 days’ prior notice that its account is overdue in accordance with the “Notices” section below.
- e. *Taxes.* Enverus fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, accessible by any jurisdiction whatsoever (collectively, “Taxes”). For clarity, Enverus is solely responsible for taxes assessable against it based on its income, property, and employees.

f. *Accounts under \$10,000 per year.* All subscribers under \$10,000 per year must have a valid ACH on file for billing purposes. Alternative payment methods (e.g., check by mail) are acceptable and will be invoiced at Subscriber's request, but if payment is not received on time, the payment method on file will be charged. Payment methods will be securely stored and automatically billed upon renewal, unless timely cancellation notice is received. Failure to maintain a valid credit card or ACH payment method on file may result in suspension or termination of the Enverus subscription.

5. Term and Termination.

- a. *Term of Agreement Intentionally Omitted.*
- b. *Termination.* Intentionally Omitted.
- c. *Refund or Payment upon Termination.*
- i. *By Subscriber.* If this Agreement is terminated by Subscriber for material breach in accordance with the "Termination" section above, Enverus shall pay to Subscriber, within thirty (30) days, a pro rata refund for any prepaid fees covering the remainder of the term of the Order Form after the effective date of termination. If this Agreement is terminated by Subscriber for convenience in accordance with the "Termination" section above, Subscriber shall pay to Enverus, within thirty (30) days, any unpaid fees for the full Term, including any Renewal Term in accordance with Section 5b. Any fees that otherwise would have become due later in the Term shall accelerate and immediately become due and payable. In no event will termination relieve Subscriber of its obligation to pay any fees payable to Enverus.
- ii. *By Enverus.* If this Agreement is terminated by Enverus for material breach in accordance with the "Termination" section above, Subscriber will pay any unpaid fees for the full Term, including any Renewal Term in accordance with Section 5b. Any fees that otherwise would have become due later in the Term shall accelerate and immediately become due and payable. If this Agreement is terminated by Enverus for convenience in accordance with the "Termination" section above, Enverus shall issue a pro rata refund to Subscriber for any prepaid fees covering the period after the effective date of termination.
- d. *Results of Termination.* Upon termination or expiration of the Agreement (i) all rights, licenses, and access to Enverus Products terminate; (ii) Subscriber shall promptly destroy all copies (including copies in email) of all Enverus Data in Subscriber's possession or control; (iii) Subscriber shall cause each User to certify that it has completed these procedures and provide such certifications to Enverus; and (iv) Enverus may pursue any remedies available at law or in equity. Subscriber may retain Enverus Data to the extent necessary to comply with applicable law or archival policies, subject to continued application of this Agreement. If Subscriber's Product access changes, this provision shall apply to Products to which Subscriber no longer has access. If Subscriber makes any material misrepresentations to Enverus or materially violates Section 2 of this Agreement or this Section 5e, then until such violations are cured and all provisions of this Section 5e have been complied with, Subscriber shall pay Enverus an amount per day equal to three times Subscriber's most recent annual fees divided by 365, as liquidated damages and not as a penalty, which Subscriber agrees is reasonable given the difficulty in determining actual damages.

6. Representations, Warranties, Exclusive Remedies, and Disclaimers.

- a. *Representations.* Each Party represents that it has validly entered into this Agreement and has the legal power to do so.
- b. *Enverus Warranties.* Enverus warrants that:
 - i. The Products will perform materially in accordance with the applicable Documentation.
 - ii. Enverus will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Subscriber Data. Those safeguards will include measures designed to prevent unauthorized access to or disclosure of Subscriber Data (other than by Subscriber's Users).

iii. For any breach of an above warranty, Subscriber's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections above.

c. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ENVERUS DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, ORAL, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, OR NONINFRINGEMENT, AND ANY WARRANTIES ARISING BY VIRTUE OF CUSTOM OF TRADE OR COURSE OF DEALING, TO THE MAXIMUM EXTENT PERMITTED BY LAW. ENVERUS DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL MEET REQUIREMENTS OR THAT THEY ARE SUITABLE FOR NEEDS OR THAT THE DATA OR RESULTS ARE CORRECT, ACCURATE, TIMELY, COMPLETE, SUITABLE, OR RELIABLE. PROPRIETARY DATA IS COMPILED FROM SOURCES BEYOND ENVERUS' CONTROL AND ERRORS, GAPS, AND INACCURACIES MAY EXIST. THE PRODUCTS AND PROPRIETARY DATA ARE PROVIDED ON AN "AS IS WITH ALL FAULTS" BASIS WITHOUT WARRANTIES OF ANY KIND. SUBSCRIBER ASSUMES ALL RISK OF ERRORS AND OMISSIONS IN THE PRODUCTS AND PROPRIETARY DATA. THE PRODUCTS ARE A SUPPLEMENT TO, NOT A SUBSTITUTE FOR, THE KNOWLEDGE, EXPERTISE, SKILL, AND JUDGMENT OF PROFESSIONALS. SUBSCRIBER ACCEPTS ALL RISKS IN ITS USE OF THE PRODUCTS INCLUDING BUT NOT LIMITED TO ANY INVESTMENT, ACQUISITION, DEVELOPMENT, PRODUCTION OR FINANCIAL DECISIONS. NO INFORMATION OBTAINED THROUGH USE OF THE PRODUCTS SHALL CONSTITUTE INVESTMENT ADVICE, TRADING RECOMMENDATIONS, OR TRADING INFORMATION. THESE DISCLAIMERS SHALL APPLY REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME OF THE ABOVE MAY NOT APPLY IN JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES.

7. Indemnification.

a. *Enverus Indemnity.* Subject to Section 7c, Enverus shall defend, indemnify, and hold harmless Subscriber against any action to the extent based on a claim that the unmodified Products infringe a patent, copyright, or trademark ("IP Claim"). If adjudged to infringe, Enverus shall, at its option (i) procure for Subscriber the right to continue using Enverus Products, (ii) modify or replace Enverus Products so that they do not infringe, or (iii) terminate the Agreement and refund the part of the pre-paid fee applicable to period after termination. Enverus shall have no liability for claims based on: (1) use of other than current, unaltered Products, (2) use of Products in combination with non-Enverus products, software, services, or data, (3) third-party software or data, or (4) failure to use Enverus Products in accordance with the Documentation, this Agreement, or for their intended purpose. **THE FOREGOING STATES THE ENTIRE LIABILITY OF ENVERUS AND THE EXCLUSIVE REMEDY OF SUBSCRIBER WITH RESPECT TO CLAIMS OF INFRINGEMENT OF ANY KIND.**

b. *Subscriber Indemnity.* Intentionally Omitted.

c. *Conditions.* The City shall: (i) promptly notify Enverus in writing of any claim (failure to provide such prompt notice shall only affect the rights to the extent that such failure has a prejudicial effect on the defenses or other rights available to Enverus), (ii) allow Enverus to have sole control of the defense and all related settlement negotiations (the City may retain independent counsel at its own expense), and (iii) provide Enverus with the information, authority and assistance necessary to perform Enverus' obligations under this Section.

8. Limitation of Liability. Intentionally Omitted.

9. Data Processing.

a. *Personal Data.* Our privacy policy describes our practices regarding our collection and use of personal information in the course of our business, including the course of providing Enverus Products to the Subscriber. In particular, our privacy policy describes the types of personal information we collect; how we collect, use, and share personal information; our legal basis for

using personal information; how long we keep personal information; how we protect personal information; the countries to which we may transfer personal information, and the rights of individuals regarding their personal information. Our privacy policy is accessible on our website at <https://www.enverus.com/privacy-policy/>. It is updated from time to time, so we encourage you to review it regularly. The Subscriber represents and warrants to Enverus that any personal information which the Subscriber provides to us is collected, used, and shared by the Subscriber in accordance with applicable data protection laws. In no event shall Enverus retain, use, sell or disclose any personal information or data that we have received from Subscriber for any purpose other than for the specific purpose of providing Enverus Products specified in this Agreement, except as may be required by law.

To the extent Personal Data from the European Economic Area (EEA), the United Kingdom or Switzerland are processed by Enverus, the Standard Contractual Clauses of the General Data Protection Regulation (GDPR), as further set forth in an applicable data processing addendum, and/or, if applicable, Enverus' commitments under the Data Privacy Framework shall apply. For the purposes of the Standard Contractual Clauses, Subscriber is the controller and data exporter. Subscriber's acceptance of this Agreement shall be treated as its execution of the Standard Contractual Clauses and Appendices. Upon request by Subscriber made within 30 days after the effective date of termination or expiration of this Agreement, Enverus will make Subscriber Data available to Subscriber for export or download. After such 30-day period, Enverus will have no obligation to maintain or provide any Subscriber Data.

b. *Anonymized Data.* Anonymized Data refers to information or data that has been collected and aggregated from multiple sources or individual data points derived from Product usage into anonymized form. This process is done to protect the privacy and confidentiality of the original source while providing valuable insights and trends into our Products, and is used for statistical analysis, reporting, research, and development purposes. Subscriber acknowledges and agrees that Enverus may collect, store, and use such information for any lawful business purpose. Enverus may disclose such Anonymized Data to third parties without restriction. Anonymized Data shall not include any sensitive or personal information. This Section 9 does not give Enverus the right to identify Subscriber as the source of the Anonymized Data.

c. *Subscriber Data.* Enverus will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Subscriber Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification, or disclosure of Subscriber Data by Enverus personnel except (a) to provide Enverus Products and prevent or address service or technical problems, (b) as compelled by law in accordance with the "Confidentiality: Compelled Disclosure" section below, or (c) as expressly permitted in writing by Subscriber. Subscriber warrants that the Subscriber Data will not infringe the Intellectual Property rights or other legal rights of any person or third party, and will not breach the provisions of any law, statute, or regulation, in any jurisdiction. If a data processing addendum ("DPA" available at www.enverus.com/wpcontent/uploads/2022/10/Enverus-Standard-DPA-Oct-2022-v2.docx.pdf) is agreed to by Subscriber and Enverus, then the DPA shall be incorporated herein. Subscriber shall not upload, transmit, or store any Subscriber Data that could be reasonably considered Personally Identifiable Information (PII) within Enverus Products without obtaining prior written consent from Enverus. Enverus shall not be liable for any damages, losses, or claims arising from Subscriber's violation of this provision.

10. Ownership / Feedback / Reference. The Products, Enverus Data, Anonymized Data, and all derivatives thereof and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights associated therewith are the valuable, exclusive property of Enverus protected by contract and intellectual property laws. This Agreement does not transfer or assign any ownership rights to Subscriber or anyone else, nor shall Subscriber challenge Enverus' ownership of such property. Enverus reserves the right to alter Enverus Products, implement user priorities, implement rules for use, discontinue certain functional aspects of Enverus Products, or add, withdraw, or alter any Enverus Data. Any ideas, feedback, suggestions, corrections, alterations, improvements, additional data points, requests, questions, comments, results of any test or evaluation and the like provided by Subscriber to Enverus ("Feedback"), including any enhancement, improvements, or new features to same, will be the property of Enverus. Subscriber hereby assigns and agrees to assign to Enverus all right, title and interest worldwide in the Feedback and the related intellectual property rights. Enverus may publicly identify Subscriber as a customer, including on its website, government filings, and in marketing materials.

11. Unauthorized Use. Enverus may utilize security keys and other enforcement mechanisms in Enverus Products. Subscriber shall not attempt to defeat or circumvent any encryption, security, or enforcement mechanisms. Subscriber will prevent unauthorized

use of Enverus Products and immediately notify Enverus of any unauthorized use. Subscriber will require each User to keep its user ID and password for Enverus Products confidential and not share user IDs with other companies or individuals. If Subscriber or any User suspects that any of its passwords have been disclosed or made known to any other person or if any User ceases to be an employee or contractor of Subscriber, Subscriber will immediately notify Enverus at support@enverus.com. Enverus shall have the right to suspend, cap, limit, or disable file transfers, downloads, and exports as part of Product design, to protect Enverus Data, or to facilitate operations.

12. Additional Security Measures. Subscriber may need to enable additional security measures, such as two-factor authentication, in order to access particular features of some Enverus Products. If Subscriber subsequently removes those security features, Subscriber or Users may not be able to continue to access particular features of the applicable Enverus Products.

13. Confidentiality.

a. *Definition of Confidential Information.* “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), that is clearly marked as confidential. Confidential Information of Subscriber includes Subscriber Data; Confidential Information of Enverus includes Enverus Products, Enverus Data, pricing, business and marketing plans, technology and technical information, product plans and designs, and business processes. However, Confidential Information does not include Anonymized Data or any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach

b. of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

c. *Protection of Confidential Information.* The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel, and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's, or accountant's compliance with this "Confidentiality" section.

c. *Compelled Disclosure.* The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. Enverus 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 such material claimed by Enverus 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*.

14. Force Majeure. Enverus shall not be liable for any loss or liability related to a Force Majeure event. Such events include electrical outages, fires, floods, extraordinary weather conditions, earthquakes, acts of God, pandemics, equipment failures, DoS/DDoS or similar attacks, connection problems, weather, strikes, walkouts, riots, armed conflicts, terrorism, labor dispute, action of government, communications or power failure, equipment or software malfunctions, wild beasts, acts of war, or any causes outside the reasonable control of Enverus. Enverus shall have no responsibility to provide access to Enverus Products during such delays or interruption regardless of the cause and shall not be deemed to be in breach of this Agreement as a result thereof. Enverus shall promptly 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.

15. Third Party Content. The Products may contain data obtained from data providers or other third parties, content posted by customers, and links to third-party websites or resources ("Third-Party Content"). Enverus is not responsible for external sites or resources and has no control over, does not endorse, and does not make any representations or warranties with respect to Third-Party Content. Enverus is not responsible or liable for any damage related to use of or reliance on any Third-Party Content. Subscriber shall evaluate, and bear all risks associated with, the use of any Third-Party Content, including any reliance on the accuracy, completeness, or usefulness. Subscriber's correspondence or business dealings with, or participation in promotions of, providers of Third-Party Content, including payment and delivery of related products or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between Subscriber and such providers. Enverus respects intellectual property rights and asks Subscriber to do the same and reserves the right, in its sole discretion, to terminate access for any User who is the subject of infringement notifications.

16. Assignment. Subscriber shall not transfer or assign, whether by operation of law, merger, change of ownership, change of control or otherwise, this Agreement or any of the rights conferred or obligations imposed by this Agreement, without Enverus' written permission, which may be withheld in Enverus' sole discretion. No transfer or assignment shall discharge any obligations under this Agreement. Attempted assignment in violation of this provision shall be void and of no effect. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties' and their respective permitted successors, transferees, and assigns. If Subscriber acquires or is acquired by another Enverus customer or its affiliate (regardless of the form of the transaction),

Subscriber's fee may be increased to account for the combined entity. Enverus shall provide prompt written notice of assignment to Subscriber.

- 17. Relationship of the Parties.** This Agreement shall not create or establish an agency, partnership, or joint venture between the Parties and the Parties jointly and severally disclaim any such relationship. The Parties are acting solely as independent contractors and neither Party owes any fiduciary, special, implied, or other duty to the other Party.
- 18. Waiver of Trial by Jury.** **IN ANY JUDICIAL PROCEEDINGS, THE PARTIES KNOWINGLY AND VOLUNTARILY, AND HAVING HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL, WAIVE ALL RIGHTS TO TRIAL BY JURY, AND AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.**
- 19. Enverus Contracting Entity, Notices, Governing Law, and Venue.** The Enverus entity entering into this Agreement, the address to which Subscriber should direct notices under this Agreement, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and the courts that have jurisdiction over any such dispute or lawsuit, depending on where the Subscriber is domiciled, shall be as follows:

If Subscriber is domiciled in:	The Enverus entity entering into this Agreement is:	Notices should be addressed to:	Governing Law:	Courts with exclusive jurisdiction are:
The United States of America or any nation besides Canada or Spain	Enverus, Inc., a Texas Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Texas and controlling United States Federal Law	Denton, Denton County, Texas, U.S.A.
Canada	Enverus Canada, Inc., an Alberta Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Alberta and controlling Canadian Federal Law	Calgary, Alberta, Canada
Spain	Enverus, Inc., a Texas Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Community of Madrid and controlling Spanish Federal Law	Madrid, Community of Madrid, Spain

Enverus may also seek injunctive or equitable relief in any court. The UN Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) are specifically excluded. Subscriber agrees that any breach of Enverus' intellectual property rights, including confidential or proprietary information and restrictions on use, will cause Enverus irreparable damage for which recovery of money damages would be inadequate, and Enverus shall therefore be entitled to obtain injunctive relief to protect such rights. Subscriber hereby waives the requirement of a bond in the event Enverus seeks injunctive relief. In addition to any other relief, at law or in equity, Enverus shall be entitled to recover from Subscriber all attorneys' fees and any costs of any litigation.

- 20. Export Controls.** The Products are subject to U.S. Export Administration Regulations. Diversion or use contrary to U.S. or other applicable law and regulation is prohibited. Subscriber agrees not to export, import, or transmit Products, Enverus Data or any other software or technical data to any country or end user or for any use in (1) any countries subject to U.S. trade embargoes (and all other nations that may from time to time be included on such a list); or (2) any persons or entities on the U.S. "Denied Persons List," "Specially Designated Nationals List," and "Entities List;" or (3) other locations or persons prohibited by law. Subscriber

represents that neither the U.S. Bureau of Industry and Security nor any other governmental agency has issued sanctions against Subscriber or denied Subscriber's export privileges.

21. Anti-Corruption. Neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

22. Notices. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d) the day of sending by email. Notices to Enverus will be addressed to the attention of its Chief Legal Officer, at Enverus, Inc., 2901 Via Fortuna #100, Austin, Texas 78746, and emailed to shawn.shillington@enverus.com. Notices to Subscriber will be addressed to the relevant contact designated by Subscriber on the applicable Order Form.

23. Audit. Intentionally Omitted.

24. Amendments.

a. This Agreement may only be amended by the signed written agreement of both parties, unless otherwise expressly permitted within the Agreement.

b. Enverus may add or delete Products or Enverus Data and change its technical specifications. Unless precluded by malfunction, emergency or regulatory requirement, Enverus will use commercially reasonable efforts to provide Subscriber with: (i) advance notice of any such changes; or (ii) ninety (90) Days' advance notice for material changes. If there is an amendment under this section that results in a deletion of a Product or Enverus Data Subscriber is subscribed to; Subscriber will receive an equitable adjustment in any applicable fees, provided that Enverus has been given 30 days to cure such deletion.

25. Definitions.

a. "Anonymized Data" means information or data that has been collected and aggregated from multiple sources or individual datapoints derived from Subscriber's Product usage into anonymized form. Any identifying details related to any specific individual or entity shall be removed.

b. "Agreement" means this Main Subscription Agreement and any Order Forms, exhibits, schedules, and addenda attached hereto or later entered into in the future that reference this Main Subscription Agreement, which shall all collectively be considered one agreement.

c. "Documentation" means Enverus' online user guides, documentation, and help and training materials, as updated from time to time, provided by Enverus or accessible via Enverus.com or login to the applicable Product.

d. "Enverus Data" means all files or data that Subscriber obtains from Enverus or by using Enverus Products, including all databases, elements, records, documents, indexes, analyses, models, maps, tables, charts, PDFs, APIs, Anonymized Data, and all structured, augmented, or other value-added data derived from Subscriber Data or other data points, regardless of the source of the underlying information.

e. "Enverus Products" means the products and services ordered by Subscriber under an Order Form and made available by Enverus.

f. "Order Form" means an ordering document specifying Enverus Products to be provided to Subscriber by Enverus.

g. "Party" and collectively "Parties" means Enverus and Subscriber.

h. "Subscriber" means the entity or individual with access to Enverus Products or named in an Order Form or invoice for Enverus Products.

i. "Subscriber Data" means all files or data that Enverus obtains from Subscriber, including as the result of Users using Enverus Products, but does not include Enverus Data.

j. "Term" means the total length of all subscription periods specified in an Order Form (e.g., if an Order Form includes subscriptions over a period of three years, then the Term is three years) plus any renewal periods.

k. "User" means an individual employee, contractor, or representative of Subscriber who is assigned a user ID and password to access Enverus Products. Each User must have a unique email address at a domain name controlled by Subscriber.

CONFLICT OF INTEREST QUESTIONNAIRE

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).

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. Enverus, 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

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:

Signature of vendor doing business with the governmental entity

 4/16/2025
Date

Certificate Of Completion

Envelope Id: AA297ED8-385D-4D1B-97D4-72C3DD5932D9

Status: Sent

Subject: Please DocuSign: City Council Contract 8800 Load & Renewable Forecasting Services

Source Envelope:

Document Pages: 45

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Christa Christian

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

Christa.Christian@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Christa Christian

Location: DocuSign

8/5/2025 11:40:39 AM

Christa.Christian@cityofdenton.com

Signer Events

Signature

Timestamp

Christa Christian

Completed

Sent: 8/5/2025 11:41:03 AM

christa.christian@cityofdenton.com

Viewed: 8/5/2025 11:41:16 AM

Purchasing Supervisor

Signed: 8/5/2025 11:41:21 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 8/5/2025 11:41:25 AM

lori.hewell@cityofdenton.com

Viewed: 8/5/2025 3:33:50 PM

Purchasing Manager

Signed: 8/5/2025 3:35:14 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 8/5/2025 3:35:18 PM

marcella.lunn@cityofdenton.com

Viewed: 8/5/2025 3:55:36 PM

Senior Deputy City Attorney

Signed: 8/5/2025 3:56:38 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Shawn Shillington

Signed by:

4FD490BA12704DD...

Sent: 8/5/2025 3:56:42 PM

shawn.shillington@enverus.com

Viewed: 8/5/2025 4:11:13 PM

General Counsel

Signed: 8/5/2025 4:11:31 PM

Enverus, Inc.

Signature Adoption: Uploaded Signature Image

Security Level: Email, Account Authentication (None)

Using IP Address:

2a02:c7c:da96:4d00:c944:d3f:b3d2:72eb

Electronic Record and Signature Disclosure:

Accepted: 8/5/2025 4:11:13 PM

ID: f3c41cf8-002c-4295-9ed5-31690018fc8e

Signer Events	Signature	Timestamp
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Antonio Puente, Jr.
 Antonio.Puente@cityofdenton.com
 DME General Manager
 Denton Municipal Electric
 Security Level: Email, Account Authentication (None)

Signed by:

 E3760944C2BF4B5...
 Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.10

Sent: 8/5/2025 4:11:35 PM
 Viewed: 8/5/2025 4:28:23 PM
 Signed: 8/5/2025 4:28:41 PM

Electronic Record and Signature Disclosure:
 Accepted: 8/5/2025 4:28:23 PM
 ID: 7816212f-5845-4ace-85e3-05a559353d47

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

Sent: 8/5/2025 4:28:46 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
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Procurement Administration Supervisor
 City of Denton
 Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

COPIED

Sent: 8/5/2025 11:41:24 AM

Gretna Jones
 gretna.jones@cityofdenton.com
 Legal Secretary
 City of Denton
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 8/5/2025 4:28:45 PM
 Viewed: 8/7/2025 11:16:25 AM

Carbon Copy Events	Status	Timestamp
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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

Shane Wallin
shane.wallin@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	8/5/2025 11:41:03 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

To contact us by email send messages to: purchasing@cityofdenton.com

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1501, **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 Enverus, Inc., for Market Fundamentals and Analytics Services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8843 - awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$247,500.00). The Public Utilities Board recommends approval (5 - 0).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Enverus, Inc., for Market Fundamentals and Analytics Services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8843 – awarded to Enverus, Inc., in the three (3) year not-to-exceed amount of \$247,500.00). [The Public Utilities Board recommends approval \(5 - 0\).](#)

INFORMATION/BACKGROUND

Denton Municipal Electric (DME) is seeking a proven, commercially available, utility and wholesale market participant grade energy market data and analytics service that provides data and analytics to support real-time and short-term commercial decision-making and understanding of fundamental information impacting energy and associated product markets, specifically in the Electric Reliability Council of Texas (ERCOT) market. These services give DME staff greater capability to visualize and analyze generation patterns, congestion, outages, energy pricing, and other fundamentals in the ERCOT market.

Enverus' solution meets all the technical specifications outlined in this RFP, including:

1. Real-Time & Day-Ahead ERCOT Market Data & Congestion Monitoring
 - a. Interactive Real-Time & Day-Ahead ERCOT market data
 - b. Congestion data & analytics
2. Predictive Analytics & Forecasting of Real-Time & Day-Ahead ERCOT Market Data
 - a. Forecasted Real-Time & Day-Ahead pricing data
 - b. Forecasted congestion data & analytics
3. Visualization of Real-Time & Day-Ahead ERCOT Market Data & Analytics
 - a. Interactive dashboards & maps showing constraints, generation, outages, nodal prices, etc.
 - b. Customizable displays & visualization of historical data & analysis
4. Reporting of Real-Time & Day-Ahead & Forecasted ERCOT Market Data & Analytics
 - a. Power market reports detailing potential weather impacts, load, forecasted congestion, pricing, etc.
 - b. Ability to access all data via API, FTP, or other automated methods

Project Description	Estimated Three (3) Year Expenditure
Market Fundamentals & Analytics Year 1	\$75,000
Market Fundamentals & Analytics Year 2	75,000
Market Fundamentals & Analytics Year 3	75,000
Contingency (10%)	22,500
Total	\$247,500

If approved, staff will utilize this solution to support effective energy portfolio management operations, increase efficiencies, increase data collection, increase staff performance, and provide management with reporting data.

Requests for Proposals were sent to 916 prospective suppliers of these items, including 17 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Two (2) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Based upon this evaluation, Enverus, Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	208, 209, & 920
Notifications sent for Solicitation sent in IonWave:	916
Number of Suppliers that viewed Solicitation in IonWave:	37
HUB-Historically Underutilized Business Invitations sent out:	128
SBE-Small Business Enterprise Invitations sent out:	342
Responses from Solicitation:	2

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 25, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award a contract with Enverus, Inc., for Market Fundamentals and Analytics Services for Denton Municipal Electric, in a three (3) year not-to-exceed amount of \$247,500.

PRINCIPAL PLACE(S) OF BUSINESS

Enverus, Inc.
Austin, TX

ESTIMATED SCHEDULE OF PROJECT

This is a three (3) year contract.

FISCAL INFORMATION

These services will be funded from the Denton Municipal Electric Power Supply, Energy Management division budget account 600003.7804. Requisition #171294 has been entered into the Purchasing software system in the amount of \$75,000. The budgeted amount for this item is \$247,500.

EXHIBITS

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

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

For information concerning this acquisition, contact: Shane Wallin, 940-349-7521.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
8843 - Pricing Evaluation for Market Fundamentals & Analytics Services

Respondents Business Name: **Enverus, Inc.** Yes Energy LLC
Principal Place of Business (City and State): **Austin, TX** Boulder, CO

Line #	Description	Bid	Bid
1	Data & Analytics Total 3-YR Cost will be for best value options/offer to meet the technical specifications in the scope of work.	\$225,000.00	\$480,000.00

Evaluation			
Item #	Scoring Criteria	Enverus, Inc.	Yes Energy LLC
1	Real-Time & Day-Ahead ERCOT Market Data & Congestion Monitoring - 20%	16.00	16.00
2	Predictive Analytics & Forecasting of Real-Time & Day-Ahead ERCOT Market Data - 10%	10.00	6.00
3	Visualization of Real-Time & Day Ahead ERCOT Market Data & Analytics - 15%	14.25	12.00
4	Reporting of Real-Time & Day Ahead & Forecasted ERCOT Market Data & Analytics - 5%	4.50	2.75
5	Delivery/Project Schedule - 5%	4.50	4.50
6	Probable Performance - 15%	13.50	9.75
7	Price, Total Cost of Ownership - 30%	30.00	14.06
Total Score:		92.75	65.06

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ENVERUS, INC., FOR MARKET FUNDAMENTALS AND ANALYTICS SERVICES FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8843 – AWARDED TO ENVERUS, INC., IN THE THREE (3) YEAR NOT-TO-EXCEED AMOUNT OF \$247,500.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for Market Fundamentals and Analytics Services for Denton Municipal Electric; 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.

<u>RFP NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8843	Enverus, Inc.	\$247,500.00

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 _____ 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.

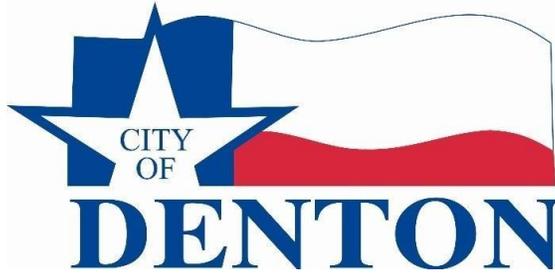
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

RFP	8843
File Name	Market Fundamentals & Analytics Services
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND ENVERUS, INC.
(Contract #8843)**

THIS CONTRACT (“Contract”) is made and entered into this date _____, by and between ENVERUS, INC. a Texas corporation, whose address 2901 Via Fortuna #100, Austin, Texas 78746, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City”, to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products and/or services in accordance with the City’s RFP# 8843 Market Fundamentals & Analytics 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, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton’s RFP 8843 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) Insurance Requirements (**Exhibit “E”**);
- (f) Contractor’s Proposal (“Contractor’s Offer”) (**Exhibit “F”**);
- (g) Contractor’s Order Form and Main Subscription Agreement (Exhibit “G”)
- (h) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “H”**)

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” 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

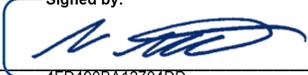
The City may terminate this Contract immediately without any further liability if the City determines, in its sole judgment, that this Contract meets the requirements under Chapter 2275 of the Texas Government Code, and Contractor is, or will be in the future, (i) owned by or the majority of stock or 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.

CONTRACTOR

Signed by: 
BY: _____
4FD4905A12704DD
AUTHORIZED SIGNATURE

Printed Name: Shawn Shillington

Title: General Counsel

512-423-0208
PHONE NUMBER

shawn.shillington@enverus.com
EMAIL ADDRESS

2025- 1345791
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

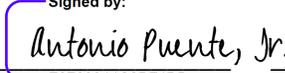
BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

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

Signed by: 
Antonio Puente, Jr.
SIGNATURE PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for RFP# 8843 Market Fundamentals & Analytics Services, shall not exceed \$247,500. Pricing shall be per Exhibit F attached.

2. The Quantities

The quantities indicated on Exhibit F are estimates based upon the best available information. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms

The contract term will be three (3) years, effective from date of award or notice to proceed as determined by the City Purchasing Department. At the sole option of the City, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Price Escalation and De-escalation

On Contractor'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. Contractor 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. Contractor must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City 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 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 approval and/or cancellation.

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

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

Exhibit B
City of Denton's RFP 8843 File

On File at the Office of the Purchasing Agent

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and Enverus, Inc. 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 Contractor's proposal response, invoice, or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City 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
Contract 8843

applicable, the tax identification number on the invoice must exactly match the information in the Contractor'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 Contract 8843

electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have Contract 8843

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 if the Contractor 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. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors (“Subcontractor”) in a DBE/MBE/WBE agreed-to plan (the “Plan”), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor’s Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

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

Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights

under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. DEFAULT:

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

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 thirty (30) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such thirty (30) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy

available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, within thirty (30) days from termination any unpaid fees for the full contract term. 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 51. 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 divided by 3 (3-year contract term) and then divided by 365 (total number of days in a year) 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 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. The City reserves the right to add insurance during the contract term.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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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 attention of its Chief Legal Officer, at Enverus, Inc., 2901 Via Fortuna #100, Austin, Texas 78746, and emailed to shawn.shillington@enverus.com, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

40. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

42. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or

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

43. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: The Contractor agrees to comply with the conflict of interest provisions of the City 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 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.

44. 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.

45. 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.

46. 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 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, 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.

47. 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 Contractor shall notify the City's Purchasing Manager, in writing, of a company name,
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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.

48. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

49. 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.

50. 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.

51. DISPUTE RESOLUTION:

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

agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

C. The parties shall not be required to submit to binding arbitration.

52. 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.

53. 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.

54. 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 the City Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the Denton City Manager or their authorized designee.

55. 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.

56. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City 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 Contractor 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.

57. 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.

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

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

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

ii. “Cost of components” means -

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

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

associated with the manufacture of the end product.

iii. "Domestic end product" means-

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

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

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

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

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

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

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

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

59. RIGHT TO INFORMATION: The City 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.

60. 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 Contractor.

61. 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).

62. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor 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.

63. 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 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 and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

64. 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.

65. 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.

66. 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 Procurement Manager in writing of any such damage within one (1) calendar day.

67. FORCE MAJEURE: The City, 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. 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 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.

68. 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.

69. 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 any immunities from Contract 8843

suit or from liability that the City may have by operation of law.

70. 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 to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

71. 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.

72. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

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

The Contractor shall:

1. Log onto the State Ethics Commission Website at :
https://www.ethics.state.tx.us/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 8800 – Form 1295)

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

Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees, and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:

- Name as Additional Insured the City of Denton, its Officials, Agents, Employees, and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
 - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
 - Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
 - Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
 - Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

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. PROFESSIONAL LIABILITY INSURANCE

If CONTRACTOR is a licensed or certified person who renders professional services, then **Professional Liability Insurance** to provide coverage against any claim which the CONTRACTOR becomes legally obligated to pay as damages arising out of the performance of professional services caused by any negligent error, omission or act with minimum limits of \$1,000,000.00 per claim, \$2,000,000.00 annual aggregate.

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.

EXHIBIT F - PRICE PROPOSAL

		Enverus, Inc
		Austin, TX
Line #	Description	3 Year Contract
1	Data & Analytics Total Cost will be for best value options/offer to meet the technical specifications in the scope of work.	\$225,000.00



ORDER FORM

Enverus is a global company with offices in the United States, Canada, Europe, and Asia. It provides products and services through Enverus, Inc., a corporation registered in Texas and headquartered in Austin, and through related entities operating in certain other jurisdictions. References to “we”, “our”, “us”, or “Enverus” are to the Enverus entity or entities providing products or services to **City of Denton, TX** (“Subscriber”). Subscriber and its Users hereby agree to this Order Form, the Main Subscription Agreement, and any other attachments hereto. Subscriber: (a) has read and understands the entire Agreement; (b) is authorized and intends to form a legally binding contract with Enverus; (c) will only use Enverus Products or Enverus Data for Internal Use and will not use Enverus Products or Enverus Data to produce or develop any commercial product or software; (d) may employ Artificial Intelligence (“AI”) tools such as large language models, neural networks, and similar technology, to enhance its utilization of the Enverus Products or analyze/interpret Enverus Data for Internal Use, so long as such use is confined to a Subscriber-controlled internal instance with stringent controls preventing external access; (e) will not upload Enverus Data or Product output to any third-party platform or software (including AI tools) that allows such data to be accessible by, or utilizes such data for the benefit of, third-parties, including the prohibition of using such data for the training or enrichment of any third-party platforms or software; (f) agrees that the Agreement, whether printed or electronic, constitutes a “writing” under any applicable law; (g) understands that the Agreement includes **WARRANTY DISCLAIMERS, INDEMNIFICATION FOR NEGLIGENCE, LIMITATION OF LIABILITY, AND WAIVER OF JURY TRIAL**, and (h) will cause all Users to abide by the Agreement.

PRICING INFORMATION IS CONFIDENTIAL TO ENVERUS AND MAY NOT BE DISCLOSED

Enverus may adjust the start date and end date, without increasing the total price or changing the term length, based on the date Enverus receives this executed Order Form and activates Enverus Products. If Subscriber acquires another Enverus customer or its affiliate (whether by merger, stock purchase, asset purchase, or otherwise), Subscriber’s fees may be increased to account for the combined entity. If resetting the start date, Enverus shall credit Subscriber for paid and unused subscription fees.

CONTACT INFORMATION

SUBSCRIBER BILLING NAME	BILLING ADDRESS	BILLING CONTACT NAME	BILLING EMAIL ADDRESS
City of Denton, TX	215 E McKinney St Denton Texas 76201 United States	Shane Wallin	shane.wallin@cityofdenton.com and ap@cityofdenton.com

SALESPERSON	EMAIL	BILLING TERM	PAYMENT TERM
Colin Groves	colin.groves@enverus.com	Annual	Net 30

TERM

Recurring Products and Services

Year 1

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/29/2025	9/28/2026	Enverus P&R - MUSE	1.00	9
9/29/2025	9/28/2026	Enverus P&R - MUSE - ERCOT	1.00	9
9/29/2025	9/28/2026	Enverus P&R - Short-Term Forecast	1.00	9
9/29/2025	9/28/2026	Enverus P&R - Short-Term Forecast - ERCOT	1.00	9
9/29/2025	9/28/2026	Enverus P&R - Flash Publications - Analyst Access	1.00	9

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/29/2025	9/28/2026	Enverus P&R - Flash Publications - Analyst Access - ERCOT	1.00	9
Year 1 TOTAL:				USD 75,000.00

Year 2

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/29/2026	9/28/2027	Enverus P&R - MUSE	1.00	9
9/29/2026	9/28/2027	Enverus P&R - MUSE - ERCOT	1.00	9
9/29/2026	9/28/2027	Enverus P&R - Short-Term Forecast	1.00	9
9/29/2026	9/28/2027	Enverus P&R - Short-Term Forecast - ERCOT	1.00	9
9/29/2026	9/28/2027	Enverus P&R - Flash Publications - Analyst Access	1.00	9
9/29/2026	9/28/2027	Enverus P&R - Flash Publications - Analyst Access - ERCOT	1.00	9
Year 2 TOTAL:				USD 75,000.00

Year 3

START DATE	END DATE	PRODUCT NAME	QTY	PERMITTED NUMBER OF AUTHORIZED USERS
9/29/2027	9/28/2028	Enverus P&R - MUSE	1.00	9
9/29/2027	9/28/2028	Enverus P&R - MUSE - ERCOT	1.00	9
9/29/2027	9/28/2028	Enverus P&R - Short-Term Forecast	1.00	9
9/29/2027	9/28/2028	Enverus P&R - Short-Term Forecast - ERCOT	1.00	9
9/29/2027	9/28/2028	Enverus P&R - Flash Publications - Analyst Access	1.00	9
9/29/2027	9/28/2028	Enverus P&R - Flash Publications - Analyst Access - ERCOT	1.00	9
Year 3 TOTAL:				USD 75,000.00

AUTHORIZED SIGNATURES

City of Denton, TX

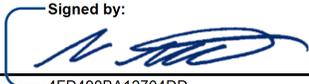
Enverus

Signature: _____

Name (Print): _____

Title: _____

Date: _____

Signature:  _____
Signed by:
4FD490BA12704DD...

Name (Print): Shawn M. Shillington

Title: General Counsel

Date: 8/5/2025

Subscriber Billing and Notice Information

Enverus Notice Information

Name: Accounts Payable Shane Wallin

Address: _____

Phone: _____

Email: accountspayable@cityofdenton.com

shane.wallin@cityofdenton.com

Name: Shawn M. Shillington

Address: 2901 Via Fortuna Building 6, Suite 100, Austin, TX, 78746

Phone: (512) 477-9200

Email: shawn.shillington@enverus.com

MAIN SUBSCRIPTION AGREEMENT

1. Product Access. During the Term and subject to Subscriber's compliance with this Agreement, Enverus grants Subscriber a limited, non-exclusive, non-transferable, non-sublicensable, revocable license for Users to use Enverus Products solely for Internal Use. Products shall not be shared with affiliates or any third parties unless otherwise agreed to by Enverus in writing. Additional Users or Products may be added pursuant to an email submitted or confirmed by Subscriber. The Products are subject to usage limits specified in the Order Form and Documentation. If Subscriber exceeds usage limits, Subscriber will execute an Order Form for additional quantities of the applicable Products promptly upon Enverus' request and/or pay any invoice for excess usage in accordance with the "Invoicing and Payment" section below. Enverus may suspend or terminate access to all Enverus Products if Subscriber or any User is suspected of violating this Agreement.

2. Internal Use.

- a. As used herein, "Internal Use" means ordinary use for internal business purposes solely for the benefit of Subscriber (not including affiliates unless specified on the applicable Order Form). Upon request from Enverus, Subscriber shall demonstrate and discuss the scope of such use with Enverus.
- b. If Subscriber uses Enverus Products or Enverus Data to create projects, designs, reports, or other documents that are accessible by any third party, then:
 - i. Any included Enverus Data shall be limited to individual data points in text (not a database).
 - ii. Any included images or tables based on Enverus Data must be static image files (e.g., pdf or jpeg, not xls or csv) that do not display specific data points and from which it is not possible to reverse engineer, extract, or manipulate such data.
 - iii. Any such projects, designs, reports, or other documents may be provided to third parties only on an ad-hoc, asynchronous basis (not as part of a regular distribution, software product, or webpage and not updated in real-time or in accordance with a regular schedule) in a manner that is not capable of use substantially as a substitute for the Enverus Data or Products.
 - iv. Subscriber shall attribute Enverus by prominently including "Source: Enverus" and shall provide Enverus a copy upon request.
- c. "Internal Use" does not include the following and Subscriber shall not and shall not permit or authorize any third party to:
 - i. Extend any warranties on behalf of Enverus or imply that Enverus is responsible for reliability, accuracy, completeness, or currency of any information.
 - ii. Provide any third party with packages or summaries of Enverus Data or any material marked "Confidential" or "Not for distribution."
 - iii. Use Enverus Products, Enverus Data, or any Enverus API other than for the Internal Use or sell, lease, license, sublicense, rent, loan, share, pledge, or otherwise transfer, with or without consideration, all or any part of Enverus Products or Enverus Data or permit third parties or Subscriber personnel that are not Users to benefit from them, including a timesharing, rental, outsourcing, service bureau, networking, hosted service, or other arrangement.
 - iv. Use Enverus Products, Enverus Data, or any Enverus API (1) to produce a commercial product or develop software in any form; (2) to build, develop, or provide any third parties or Subscriber personnel that are not Users with any software, code, scripts, models, interpretations, training data, apps, platforms, exchanges, websites, widgets, plugins or other tools; or (3) modify, copy, or create derivative works, packages, or summaries of any Products, Enverus Data, or Enverus API or any part, feature, function or user interface thereof.

- v. Reverse engineer, decompile, decrypt, or disassemble Products, or attempt to de-aggregate or de-anonymize any data or information that has been aggregated or anonymized, remove proprietary notices or labels, use any robot, spider, or other automated method (other than an Enverus API) to access, download, or reproduce Enverus Data, or use Products in a way that causes a denial of service for other users or interferes with or unduly burdens performance.
- vi. Disclose or permit any third party to use confidential information of Enverus, including (i) Enverus Data, (ii) Documentation or technical information related to Enverus Products, and (iii) the provisions of this Agreement (including pricing).
- d. Subscriber is authorized to employ Artificial Intelligence (“AI”) tools such as large language models, neural networks, and similar technology, to enhance its utilization of the Enverus Products or analyze/interpret Enverus Data for Internal Use. This usage shall comply with Subscriber’s obligations under this Agreement, including maintaining the confidentiality of the Enverus Products and Enverus Data. Subscriber expressly agrees that:
 - i. *AI Platform Uploads.* Subscriber may upload Enverus Data or Product output to third-party or external AI platforms (e.g., Microsoft Copilot). However, Subscriber represents and warrants that such uploads are only to Subscriber-controlled internal instances and that such platforms do not utilize the uploaded Enverus Data or Enverus Product output for AI enrichment or training purposes or make such data otherwise available or accessible to any third parties.
 - ii. *Prohibition on Commercial Product Development.* Subscriber shall not use any AI in conjunction with Enverus Data or Enverus Product output to create or develop any products or services intended for commercial sale. This includes, but is not limited to, software, derivative datasets, or consulting deliverables.

3. Subscriber Responsibilities. Subscriber is responsible for all activities of its Users, obtaining and maintaining any Subscriber equipment and any ancillary services needed to connect to, access, or use Enverus Products. Subscriber shall: (a) be responsible for Users’ compliance with this Agreement; (b) be responsible for the accuracy, quality and legality of Subscriber Data, the means by which Subscriber acquired Subscriber Data, Subscriber’s use of Subscriber Data with Enverus Products, and the interoperation of any Non Enverus Applications with which Subscriber uses Products; (c) use commercially reasonable efforts to prevent unauthorized access to or use of Products, and notify Enverus promptly of any such unauthorized access or use; (d) use Products only in accordance with this Agreement and applicable laws and government regulations

4. Fees and Payment.

- a. *Fees.* Subscriber will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Products purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.
- b. *Invoicing and Payment.* Fees will be invoiced in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 30 days from receipt of the invoice. Subscriber is responsible for providing complete and accurate billing and contact information to Enverus and notifying Enverus of any changes to such information.
- c. *Overdue Charges.* If any invoiced amount is not received by Enverus by the due date, then without limiting Enverus’ rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.
- d. *Suspension of Product Access.* If any charge owing by Subscriber is 30 days or more overdue, Enverus may, without limiting its other rights and remedies, suspend access to all Enverus Products until such amounts are paid in full, provided Enverus has given Subscriber at least 10 days’ prior notice that its account is overdue in accordance with the “Notices” section below.
- e. *Taxes.* Enverus fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, accessible by any jurisdiction whatsoever (collectively, “Taxes”). For clarity, Enverus is solely responsible for taxes assessable against it based on its income, property, and employees.

f. *Accounts under \$10,000 per year.* All subscribers under \$10,000 per year must have a valid ACH on file for billing purposes. Alternative payment methods (e.g., check by mail) are acceptable and will be invoiced at Subscriber's request, but if payment is not received on time, the payment method on file will be charged. Payment methods will be securely stored and automatically billed upon renewal, unless timely cancellation notice is received. Failure to maintain a valid credit card or ACH payment method on file may result in suspension or termination of the Enverus subscription.

5. Term and Termination.

- a. *Term of Agreement Intentionally Omitted.*
 - b. *Termination.* Intentionally Omitted.
 - c. *Refund or Payment upon Termination.*
- i. *By Subscriber.* If this Agreement is terminated by Subscriber for material breach in accordance with the "Termination" section above, Enverus shall pay to Subscriber, within thirty (30) days, a pro rata refund for any prepaid fees covering the remainder of the term of the Order Form after the effective date of termination. If this Agreement is terminated by Subscriber for convenience in accordance with the "Termination" section above, Subscriber shall pay to Enverus, within thirty (30) days, any unpaid fees for the full Term, including any Renewal Term in accordance with Section 5b. Any fees that otherwise would have become due later in the Term shall accelerate and immediately become due and payable. In no event will termination relieve Subscriber of its obligation to pay any fees payable to Enverus.
 - ii. *By Enverus.* If this Agreement is terminated by Enverus for material breach in accordance with the "Termination" section above, Subscriber will pay any unpaid fees for the full Term, including any Renewal Term in accordance with Section 5b. Any fees that otherwise would have become due later in the Term shall accelerate and immediately become due and payable. If this Agreement is terminated by Enverus for convenience in accordance with the "Termination" section above, Enverus shall issue a pro rata refund to Subscriber for any prepaid fees covering the period after the effective date of termination.
- d. *Results of Termination.* Upon termination or expiration of the Agreement (i) all rights, licenses, and access to Enverus Products terminate; (ii) Subscriber shall promptly destroy all copies (including copies in email) of all Enverus Data in Subscriber's possession or control; (iii) Subscriber shall cause each User to certify that it has completed these procedures and provide such certifications to Enverus; and (iv) Enverus may pursue any remedies available at law or in equity. Subscriber may retain Enverus Data to the extent necessary to comply with applicable law or archival policies, subject to continued application of this Agreement. If Subscriber's Product access changes, this provision shall apply to Products to which Subscriber no longer has access. If Subscriber makes any material misrepresentations to Enverus or materially violates Section 2 of this Agreement or this Section 5e, then until such violations are cured and all provisions of this Section 5e have been complied with, Subscriber shall pay Enverus an amount per day equal to three times Subscriber's most recent annual fees divided by 365, as liquidated damages and not as a penalty, which Subscriber agrees is reasonable given the difficulty in determining actual damages.

6. Representations, Warranties, Exclusive Remedies, and Disclaimers.

- a. *Representations.* Each Party represents that it has validly entered into this Agreement and has the legal power to do so.
- b. *Enverus Warranties.* Enverus warrants that:
 - i. The Products will perform materially in accordance with the applicable Documentation.
 - ii. Enverus will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Subscriber Data. Those safeguards will include measures designed to prevent unauthorized access to or disclosure of Subscriber Data (other than by Subscriber's Users).

iii. For any breach of an above warranty, Subscriber's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections above.

c. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ENVERUS DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, ORAL, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, OR NONINFRINGEMENT, AND ANY WARRANTIES ARISING BY VIRTUE OF CUSTOM OF TRADE OR COURSE OF DEALING, TO THE MAXIMUM EXTENT PERMITTED BY LAW. ENVERUS DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL MEET REQUIREMENTS OR THAT THEY ARE SUITABLE FOR NEEDS OR THAT THE DATA OR RESULTS ARE CORRECT, ACCURATE, TIMELY, COMPLETE, SUITABLE, OR RELIABLE. PROPRIETARY DATA IS COMPILED FROM SOURCES BEYOND ENVERUS' CONTROL AND ERRORS, GAPS, AND INACCURACIES MAY EXIST. THE PRODUCTS AND PROPRIETARY DATA ARE PROVIDED ON AN "AS IS WITH ALL FAULTS" BASIS WITHOUT WARRANTIES OF ANY KIND. SUBSCRIBER ASSUMES ALL RISK OF ERRORS AND OMISSIONS IN THE PRODUCTS AND PROPRIETARY DATA. THE PRODUCTS ARE A SUPPLEMENT TO, NOT A SUBSTITUTE FOR, THE KNOWLEDGE, EXPERTISE, SKILL, AND JUDGMENT OF PROFESSIONALS. SUBSCRIBER ACCEPTS ALL RISKS IN ITS USE OF THE PRODUCTS INCLUDING BUT NOT LIMITED TO ANY INVESTMENT, ACQUISITION, DEVELOPMENT, PRODUCTION OR FINANCIAL DECISIONS. NO INFORMATION OBTAINED THROUGH USE OF THE PRODUCTS SHALL CONSTITUTE INVESTMENT ADVICE, TRADING RECOMMENDATIONS, OR TRADING INFORMATION. THESE DISCLAIMERS SHALL APPLY REGARDLESS OF ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME OF THE ABOVE MAY NOT APPLY IN JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES.

7. Indemnification.

a. *Enverus Indemnity.* Subject to Section 7c, Enverus shall defend, indemnify, and hold harmless Subscriber against any action to the extent based on a claim that the unmodified Products infringe a patent, copyright, or trademark ("IP Claim"). If adjudged to infringe, Enverus shall, at its option (i) procure for Subscriber the right to continue using Enverus Products, (ii) modify or replace Enverus Products so that they do not infringe, or (iii) terminate the Agreement and refund the part of the pre-paid fee applicable to period after termination. Enverus shall have no liability for claims based on: (1) use of other than current, unaltered Products, (2) use of Products in combination with non-Enverus products, software, services, or data, (3) third-party software or data, or (4) failure to use Enverus Products in accordance with the Documentation, this Agreement, or for their intended purpose. **THE FOREGOING STATES THE ENTIRE LIABILITY OF ENVERUS AND THE EXCLUSIVE REMEDY OF SUBSCRIBER WITH RESPECT TO CLAIMS OF INFRINGEMENT OF ANY KIND.**

b. *Subscriber Indemnity.* Intentionally Omitted.

c. *Conditions.* The City shall: (i) promptly notify Enverus in writing of any claim (failure to provide such prompt notice shall only affect the rights to the extent that such failure has a prejudicial effect on the defenses or other rights available to Enverus), (ii) allow Enverus to have sole control of the defense and all related settlement negotiations (the City may retain independent counsel at its own expense), and (iii) provide Enverus with the information, authority and assistance necessary to perform Enverus' obligations under this Section.

8. Limitation of Liability. Intentionally Omitted.

9. Data Processing.

a. *Personal Data.* Our privacy policy describes our practices regarding our collection and use of personal information in the course of our business, including the course of providing Enverus Products to the Subscriber. In particular, our privacy policy describes the types of personal information we collect; how we collect, use, and share personal information; our legal basis for

using personal information; how long we keep personal information; how we protect personal information; the countries to which we may transfer personal information, and the rights of individuals regarding their personal information. Our privacy policy is accessible on our website at <https://www.enverus.com/privacy-policy/>. It is updated from time to time, so we encourage you to review it regularly. The Subscriber represents and warrants to Enverus that any personal information which the Subscriber provides to us is collected, used, and shared by the Subscriber in accordance with applicable data protection laws. In no event shall Enverus retain, use, sell or disclose any personal information or data that we have received from Subscriber for any purpose other than for the specific purpose of providing Enverus Products specified in this Agreement, except as may be required by law.

To the extent Personal Data from the European Economic Area (EEA), the United Kingdom or Switzerland are processed by Enverus, the Standard Contractual Clauses of the General Data Protection Regulation (GDPR), as further set forth in an applicable data processing addendum, and/or, if applicable, Enverus' commitments under the Data Privacy Framework shall apply. For the purposes of the Standard Contractual Clauses, Subscriber is the controller and data exporter. Subscriber's acceptance of this Agreement shall be treated as its execution of the Standard Contractual Clauses and Appendices. Upon request by Subscriber made within 30 days after the effective date of termination or expiration of this Agreement, Enverus will make Subscriber Data available to Subscriber for export or download. After such 30-day period, Enverus will have no obligation to maintain or provide any Subscriber Data.

b. *Anonymized Data.* Anonymized Data refers to information or data that has been collected and aggregated from multiple sources or individual data points derived from Product usage into anonymized form. This process is done to protect the privacy and confidentiality of the original source while providing valuable insights and trends into our Products, and is used for statistical analysis, reporting, research, and development purposes. Subscriber acknowledges and agrees that Enverus may collect, store, and use such information for any lawful business purpose. Enverus may disclose such Anonymized Data to third parties without restriction. Anonymized Data shall not include any sensitive or personal information. This Section 9 does not give Enverus the right to identify Subscriber as the source of the Anonymized Data.

c. *Subscriber Data.* Enverus will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Subscriber Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification, or disclosure of Subscriber Data by Enverus personnel except (a) to provide Enverus Products and prevent or address service or technical problems, (b) as compelled by law in accordance with the "Confidentiality: Compelled Disclosure" section below, or (c) as expressly permitted in writing by Subscriber. Subscriber warrants that the Subscriber Data will not infringe the Intellectual Property rights or other legal rights of any person or third party, and will not breach the provisions of any law, statute, or regulation, in any jurisdiction. If a data processing addendum ("DPA" available at www.enverus.com/wpcontent/uploads/2022/10/Enverus-Standard-DPA-Oct-2022-v2.docx.pdf) is agreed to by Subscriber and Enverus, then the DPA shall be incorporated herein. Subscriber shall not upload, transmit, or store any Subscriber Data that could be reasonably considered Personally Identifiable Information (PII) within Enverus Products without obtaining prior written consent from Enverus. Enverus shall not be liable for any damages, losses, or claims arising from Subscriber's violation of this provision.

10. Ownership / Feedback / Reference. The Products, Enverus Data, Anonymized Data, and all derivatives thereof and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights associated therewith are the valuable, exclusive property of Enverus protected by contract and intellectual property laws. This Agreement does not transfer or assign any ownership rights to Subscriber or anyone else, nor shall Subscriber challenge Enverus' ownership of such property. Enverus reserves the right to alter Enverus Products, implement user priorities, implement rules for use, discontinue certain functional aspects of Enverus Products, or add, withdraw, or alter any Enverus Data. Any ideas, feedback, suggestions, corrections, alterations, improvements, additional data points, requests, questions, comments, results of any test or evaluation and the like provided by Subscriber to Enverus ("Feedback"), including any enhancement, improvements, or new features to same, will be the property of Enverus. Subscriber hereby assigns and agrees to assign to Enverus all right, title and interest worldwide in the Feedback and the related intellectual property rights. Enverus may publicly identify Subscriber as a customer, including on its website, government filings, and in marketing materials.

11. Unauthorized Use. Enverus may utilize security keys and other enforcement mechanisms in Enverus Products. Subscriber shall not attempt to defeat or circumvent any encryption, security, or enforcement mechanisms. Subscriber will prevent unauthorized

use of Enverus Products and immediately notify Enverus of any unauthorized use. Subscriber will require each User to keep its user ID and password for Enverus Products confidential and not share user IDs with other companies or individuals. If Subscriber or any User suspects that any of its passwords have been disclosed or made known to any other person or if any User ceases to be an employee or contractor of Subscriber, Subscriber will immediately notify Enverus at support@enverus.com. Enverus shall have the right to suspend, cap, limit, or disable file transfers, downloads, and exports as part of Product design, to protect Enverus Data, or to facilitate operations.

12. Additional Security Measures. Subscriber may need to enable additional security measures, such as two-factor authentication, in order to access particular features of some Enverus Products. If Subscriber subsequently removes those security features, Subscriber or Users may not be able to continue to access particular features of the applicable Enverus Products.

13. Confidentiality.

a. *Definition of Confidential Information.* “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), that is clearly marked as confidential. Confidential Information of Subscriber includes Subscriber Data; Confidential Information of Enverus includes Enverus Products, Enverus Data, pricing, business and marketing plans, technology and technical information, product plans and designs, and business processes. However, Confidential Information does not include Anonymized Data or any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach

b. of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

c. *Protection of Confidential Information.* The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel, and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's, or accountant's compliance with this "Confidentiality" section.

c. *Compelled Disclosure.* The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. Enverus 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 such material claimed by Enverus 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*.

14. Force Majeure. Enverus shall not be liable for any loss or liability related to a Force Majeure event. Such events include electrical outages, fires, floods, extraordinary weather conditions, earthquakes, acts of God, pandemics, equipment failures, DoS/DDoS or similar attacks, connection problems, weather, strikes, walkouts, riots, armed conflicts, terrorism, labor dispute, action of government, communications or power failure, equipment or software malfunctions, wild beasts, acts of war, or any causes outside the reasonable control of Enverus. Enverus shall have no responsibility to provide access to Enverus Products during such delays or interruption regardless of the cause and shall not be deemed to be in breach of this Agreement as a result thereof. Enverus shall promptly 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.

15. Third Party Content. The Products may contain data obtained from data providers or other third parties, content posted by customers, and links to third-party websites or resources ("Third-Party Content"). Enverus is not responsible for external sites or resources and has no control over, does not endorse, and does not make any representations or warranties with respect to Third-Party Content. Enverus is not responsible or liable for any damage related to use of or reliance on any Third-Party Content. Subscriber shall evaluate, and bear all risks associated with, the use of any Third-Party Content, including any reliance on the accuracy, completeness, or usefulness. Subscriber's correspondence or business dealings with, or participation in promotions of, providers of Third-Party Content, including payment and delivery of related products or services, and any other terms, conditions, warranties, or representations associated with such dealings, are solely between Subscriber and such providers. Enverus respects intellectual property rights and asks Subscriber to do the same and reserves the right, in its sole discretion, to terminate access for any User who is the subject of infringement notifications.

16. Assignment. Subscriber shall not transfer or assign, whether by operation of law, merger, change of ownership, change of control or otherwise, this Agreement or any of the rights conferred or obligations imposed by this Agreement, without Enverus' written permission, which may be withheld in Enverus' sole discretion. No transfer or assignment shall discharge any obligations under this Agreement. Attempted assignment in violation of this provision shall be void and of no effect. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the Parties' and their respective permitted successors, transferees, and assigns. If Subscriber acquires or is acquired by another Enverus customer or its affiliate (regardless of the form of the transaction),

Subscriber's fee may be increased to account for the combined entity. Enverus shall provide prompt written notice of assignment to Subscriber.

- 17. Relationship of the Parties.** This Agreement shall not create or establish an agency, partnership, or joint venture between the Parties and the Parties jointly and severally disclaim any such relationship. The Parties are acting solely as independent contractors and neither Party owes any fiduciary, special, implied, or other duty to the other Party.
- 18. Waiver of Trial by Jury.** **IN ANY JUDICIAL PROCEEDINGS, THE PARTIES KNOWINGLY AND VOLUNTARILY, AND HAVING HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL, WAIVE ALL RIGHTS TO TRIAL BY JURY, AND AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.**
- 19. Enverus Contracting Entity, Notices, Governing Law, and Venue.** The Enverus entity entering into this Agreement, the address to which Subscriber should direct notices under this Agreement, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement, and the courts that have jurisdiction over any such dispute or lawsuit, depending on where the Subscriber is domiciled, shall be as follows:

If Subscriber is domiciled in:	The Enverus entity entering into this Agreement is:	Notices should be addressed to:	Governing Law:	Courts with exclusive jurisdiction are:
The United States of America or any nation besides Canada or Spain	Enverus, Inc., a Texas Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Texas and controlling United States Federal Law	Denton, Denton County, Texas, U.S.A.
Canada	Enverus Canada, Inc., an Alberta Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Alberta and controlling Canadian Federal Law	Calgary, Alberta, Canada
Spain	Enverus, Inc., a Texas Corporation	2901 Via Fortuna Building 6, Suite 100 Austin, TX, 78746	Community of Madrid and controlling Spanish Federal Law	Madrid, Community of Madrid, Spain

Enverus may also seek injunctive or equitable relief in any court. The UN Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) are specifically excluded. Subscriber agrees that any breach of Enverus' intellectual property rights, including confidential or proprietary information and restrictions on use, will cause Enverus irreparable damage for which recovery of money damages would be inadequate, and Enverus shall therefore be entitled to obtain injunctive relief to protect such rights. Subscriber hereby waives the requirement of a bond in the event Enverus seeks injunctive relief. In addition to any other relief, at law or in equity, Enverus shall be entitled to recover from Subscriber all attorneys' fees and any costs of any litigation.

- 20. Export Controls.** The Products are subject to U.S. Export Administration Regulations. Diversion or use contrary to U.S. or other applicable law and regulation is prohibited. Subscriber agrees not to export, import, or transmit Products, Enverus Data or any other software or technical data to any country or end user or for any use in (1) any countries subject to U.S. trade embargoes (and all other nations that may from time to time be included on such a list); or (2) any persons or entities on the U.S. "Denied Persons List," "Specially Designated Nationals List," and "Entities List;" or (3) other locations or persons prohibited by law. Subscriber

represents that neither the U.S. Bureau of Industry and Security nor any other governmental agency has issued sanctions against Subscriber or denied Subscriber's export privileges.

21. Anti-Corruption. Neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

22. Notices. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d) the day of sending by email. Notices to Enverus will be addressed to the attention of its Chief Legal Officer, at Enverus, Inc., 2901 Via Fortuna #100, Austin, Texas 78746, and emailed to shawn.shillington@enverus.com. Notices to Subscriber will be addressed to the relevant contact designated by Subscriber on the applicable Order Form.

23. Audit. Intentionally Omitted.

24. Amendments.

a. This Agreement may only be amended by the signed written agreement of both parties, unless otherwise expressly permitted within the Agreement.

b. Enverus may add or delete Products or Enverus Data and change its technical specifications. Unless precluded by malfunction, emergency or regulatory requirement, Enverus will use commercially reasonable efforts to provide Subscriber with: (i) advance notice of any such changes; or (ii) ninety (90) Days' advance notice for material changes. If there is an amendment under this section that results in a deletion of a Product or Enverus Data Subscriber is subscribed to; Subscriber will receive an equitable adjustment in any applicable fees, provided that Enverus has been given 30 days to cure such deletion.

25. Definitions.

a. "Anonymized Data" means information or data that has been collected and aggregated from multiple sources or individual datapoints derived from Subscriber's Product usage into anonymized form. Any identifying details related to any specific individual or entity shall be removed.

b. "Agreement" means this Main Subscription Agreement and any Order Forms, exhibits, schedules, and addenda attached hereto or later entered into in the future that reference this Main Subscription Agreement, which shall all collectively be considered one agreement.

c. "Documentation" means Enverus' online user guides, documentation, and help and training materials, as updated from time to time, provided by Enverus or accessible via Enverus.com or login to the applicable Product.

d. "Enverus Data" means all files or data that Subscriber obtains from Enverus or by using Enverus Products, including all databases, elements, records, documents, indexes, analyses, models, maps, tables, charts, PDFs, APIs, Anonymized Data, and all structured, augmented, or other value-added data derived from Subscriber Data or other data points, regardless of the source of the underlying information.

e. "Enverus Products" means the products and services ordered by Subscriber under an Order Form and made available by Enverus.

f. "Order Form" means an ordering document specifying Enverus Products to be provided to Subscriber by Enverus.

g. "Party" and collectively "Parties" means Enverus and Subscriber.

h. "Subscriber" means the entity or individual with access to Enverus Products or named in an Order Form or invoice for Enverus Products.

i. "Subscriber Data" means all files or data that Enverus obtains from Subscriber, including as the result of Users using Enverus Products, but does not include Enverus Data.

j. "Term" means the total length of all subscription periods specified in an Order Form (e.g., if an Order Form includes subscriptions over a period of three years, then the Term is three years) plus any renewal periods.

k. "User" means an individual employee, contractor, or representative of Subscriber who is assigned a user ID and password to access Enverus Products. Each User must have a unique email address at a domain name controlled by Subscriber.

Exhibit H - Form

CIQ

CONFLICT OF INTEREST QUESTIONNAIRE

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).

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.

Enverus, 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

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:


Signature of vendor doing business with the governmental entity

June 9, 2025

Date

Certificate Of Completion

Envelope Id: 994DE7C4-0374-4684-A9A1-A7BBB736C6F6

Status: Sent

Subject: Please DocuSign: City Council Contract 8843 Market Fundamentals & Analytics Services

Source Envelope:

Document Pages: 46

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Christa Christian

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

Christa.Christian@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Christa Christian

Location: DocuSign

8/5/2025 11:38:47 AM

Christa.Christian@cityofdenton.com

Signer Events

Signature

Timestamp

Christa Christian

Completed

Sent: 8/5/2025 11:39:32 AM

christa.christian@cityofdenton.com

Viewed: 8/5/2025 11:39:46 AM

Purchasing Supervisor

Signed: 8/5/2025 11:39:50 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 8/5/2025 11:39:54 AM

lori.hewell@cityofdenton.com

Viewed: 8/5/2025 3:32:16 PM

Purchasing Manager

Signed: 8/5/2025 3:33:21 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 8/5/2025 3:33:26 PM

marcella.lunn@cityofdenton.com

Viewed: 8/5/2025 3:49:10 PM

Senior Deputy City Attorney

Signed: 8/5/2025 3:53:42 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Shawn Shillington

Signed by:

4FD490BA12704DD...

Sent: 8/5/2025 3:53:46 PM

shawn.shillington@enverus.com

Viewed: 8/5/2025 3:58:23 PM

General Counsel

Signed: 8/5/2025 3:58:53 PM

Enverus, Inc.

Signature Adoption: Uploaded Signature Image

Security Level: Email, Account Authentication (None)

Using IP Address:

2a02:c7c:da96:4d00:c944:d3f:b3d2:72eb

Electronic Record and Signature Disclosure:

Accepted: 8/5/2025 3:58:23 PM

ID: 137aa0ef-961b-4dc7-b06d-e17fe9c756ac

Signer Events	Signature	Timestamp
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Antonio Puente, Jr.
 Antonio.Puente@cityofdenton.com
 DME General Manager
 Denton Municipal Electric
 Security Level: Email, Account Authentication (None)

Signed by:

 E3760944C2BF4B5...
 Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.10

Sent: 8/5/2025 3:58:57 PM
 Viewed: 8/5/2025 4:00:14 PM
 Signed: 8/5/2025 4:01:10 PM

Electronic Record and Signature Disclosure:
 Accepted: 8/5/2025 4:00:14 PM
 ID: dec42ee0-6757-41da-903e-15a43ec1f411

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

Sent: 8/5/2025 4:01:16 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
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Procurement Administration Supervisor
 City of Denton
 Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

COPIED

Sent: 8/5/2025 11:39:53 AM

Gretna Jones
 gretna.jones@cityofdenton.com
 Legal Secretary
 City of Denton
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 8/5/2025 4:01:14 PM
 Viewed: 8/7/2025 11:18:11 AM

Carbon Copy Events	Status	Timestamp
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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

Shane Wallin
shane.wallin@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	8/5/2025 11:39:32 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

To contact us by email send messages to: purchasing@cityofdenton.com

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1502, **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 8716 for the DME Compensation Study for the Human Resources Department; and providing an effective date (RFP 8716).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 8716 for the DME Compensation Study for the Human Resources Department; and providing an effective date (RFP 8716).

INFORMATION/BACKGROUND

The Human Resources Department is responsible for overseeing compensation and classification of all City positions. A recent initiative focused on reviewing and updating the pay plans specific to electric service positions.

A Request for Proposal (RFP) for these services was issued on December 13, 2024, and the City received nine (9) proposals. Following the recent financial outlook for the current and upcoming fiscal year, this project is being paused temporarily and will be re-evaluated at a later date based on budget conditions and organizational needs.

In accordance with the Local Government Code 252.043, the City Council retains the authority to reject any and all bids.

RECOMMENDATION

Staff recommends the rejection of all proposals for the DME Compensation Study (RFP 8716).

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Sara Kjos, 940-349-7864.

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 8716 FOR THE DME COMPENSATION STUDY FOR THE HUMAN RESOURCES DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE (RFP 8716).

WHEREAS, the City has solicited, received, and tabulated competitive proposals to evaluate the DME Compensation Study (RFP 8716) 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 8716 – DME Compensation Study) 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 8716.

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 8716 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



City of Denton

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

Legislation Text

File #: ID 25-1503, 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 Safe Software Inc., for the purchase of the Feature Manipulation Engine (FME) for the Technology Services 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 8756 - awarded to Safe Software Inc., for one (1) year, with the option for three (3) additional one (1) year extensions, in the total four (4) year not-to-exceed amount of \$125,000.00).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Safe Software Inc., for the purchase of the Feature Manipulation Engine (FME) for the Technology Services 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 8756 – awarded to Safe Software Inc., for one (1) year, with the option for three (3) additional one (1) year extensions, in the total four (4) year not-to-exceed amount of \$125,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

INFORMATION/BACKGROUND

The Feature Manipulation Engine (FME) software is designed to develop integrations between various systems to automate and build intelligent workflows. This software offers a unique combination of capable integrations, combined with a drag-and-drop development interface. This unique combination includes ESRI, SQL, XML, Excel, JSON, text, and SharePoint. Specifically, the ESRI integrations are unique and proprietary to FME.

Applications in the city must be capable of interfacing with other City software and systems. An application with limited integration capabilities would necessitate the acquisition of multiple software solutions, significantly complicating the integration process and compromising long-term reliability. Furthermore, custom-scripted integrations are costlier to develop, maintain, and update over time. Additionally, this software plays a critical role in facilitating data transfer between JDE and other systems. FME provides these capabilities in a no-coding platform that allows City technology staff to manage and change application integrations.

Below are the estimated expenditures along with a contingency that will provide additional spending authority for potential new system integrations.

Years of Internet Service	Estimated Four (4) Year Expenditure
Year 1	\$21,750.00
Year 2	25,000.00
Year 3	30,000.00
Year 4	35,000.00
Contingency for additional support	13,250.00
Total Contract NTE Amount:	\$125,000.00

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 Safe Software Inc., as a sole source supplier, for the purchase of the Feature Manipulation Engine (FME) for the Technology Services Department, in a one (1) year, with the option for three (3) additional one (1) year extensions, in the total four (4) year not-to-exceed amount of \$125,000.

PRINCIPAL PLACE OF BUSINESS

Safe Software Inc.
BC, Canada

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for three (3) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These services will be funded from Technology Services operating account 830400.7803. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$125,000. 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: 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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SAFE SOFTWARE INC., FOR THE PURCHASE OF THE FEATURE MANIPULATION ENGINE (FME) FOR THE TECHNOLOGY SERVICES 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 8756 – AWARDED TO SAFE SOFTWARE INC., FOR ONE (1) YEAR, WITH THE OPTION FOR THREE (3) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FOUR (4) YEAR NOT-TO-EXCEED AMOUNT OF \$125,000.00).

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; 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:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8756	Safe Software Inc.	\$125,000.00

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.

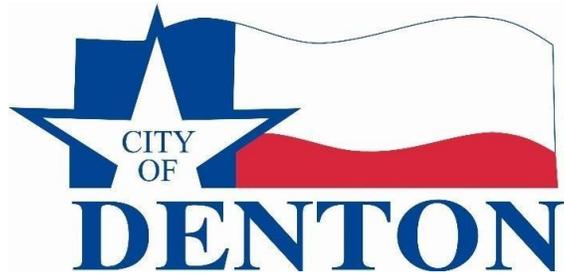
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

FILE	8756
File Name	FME Software Maintenance Support
Purchasing Contact	Cori Power
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND SAFE SOFTWARE
(Contract #8756)**

THIS CONTRACT is made and entered into this date _____, by and between Safe Software Inc., a Canada corporation, whose address Suite 1200, 9639 137a Street, Surrey, BC, Canada V3T 0M1, 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 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 – FME Subscription Order Form and FME Software License Agreement (“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” 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.

CONTRACTOR

DocuSigned by:
BY: Angela McGeachan
AUTHORIZED SIGNATURE

Printed Name: Angela McGeachan

Title: General Counsel

604-501-9985
PHONE NUMBER

Angela.McGeachan@safe.com
EMAIL ADDRESS

2025-1346612
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

DocuSigned by:
Leisha Meine Leisha Meine
SIGNATURE PRINTED NAME

Chief Technology Officer
TITLE

Technology Services
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

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

Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$125,000. Pricing shall be per Exhibit E attached.

2. Contract Term

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional three (3) 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.

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.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance
Contract 8756

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 ("HIRIRA) ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. INVOICES:

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

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Contract 8756

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 electronic transfer of funds. The Contractor agrees that there shall be no additional charges, Contract 8756

surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, and computations pertaining to Contract 8756

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 5% or greater. If an overpayment of 5% 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 5% or greater. If an overpayment of 5% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors (“Subcontractor”) in a DBE/MBE/WBE agreed-to plan (the “Plan”), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor’s Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as

a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event Contract 8756

the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above Contract 8756

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 thirty (30) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such thirty (30) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without
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limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to

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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 third party 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 THIRD PARTY 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 statute of limitations (e.g. any lawsuit must be commenced within one year of the event). Contractor MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, USE OF REASONABLE SKILL AND CARE, OR FITNESS FOR ANY PARTICULAR PURPOSE for any software provided under this Agreement. Such SOFTWARE IS PROVIDED "AS IS" AND WITH ALL DEFECTS AND ERRORS.

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.

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B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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

36. **NOTICES:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager. Notices to the Contractor shall be addressed to Safe Software Inc., Suite 1200, 9639 137A Street, Surrey, BC, Canada V3T 0M1 to the attention of the Legal Department.

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** Contract 8756

DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

40. OWNERSHIP AND USE OF SOFTWARE: Any software provided to the City under this agreement is considered a Commercial-Off-the Shelf software application and is subject to the FME Software License Agreement terms attached as Exhibit E.

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 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 the Contractor shall provide written notice to the City within 60 days of any assignment of rights or interests in, or delegation of obligations under, the Contract. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract 8756

Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

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

50. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. DISPUTE RESOLUTION:

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute, however any decision requiring approval of the City Council of the City will be required to be submitted to the City Council and the senior level person shall have authority to recommend approval of any resolution. The purpose of this and any subsequent meeting is to

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attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

C. The parties shall not be required to submit to binding arbitration.

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

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

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

- | |
|-----------------------------|
| New Year's Day (observed) |
| Martin Luther King, Jr. Day |
| Memorial Day |
| Juneteenth |
| Independence Day |
| Labor Day |
| Veteran's Day |
| Thanksgiving Day |

Friday After Thanksgiving
 Christmas Eve (observed)
 Christmas Day (observed)

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

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

59. EQUAL OPPORTUNITY Contractor agrees that during the performance of its contract it will:

- A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
- B. Identify itself as an “Equal Opportunity Employer” (or Canadian-equivalent status) 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 or Canadian-equivalent legislation.

60. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)
 not applicable

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 or 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: Not applicable

64. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor or supplier shall comply with all applicable 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 represents and warrants that they are in compliance with all applicable employment law including workers' compensation, tax and withholding requirements, and unemployment insurance as required by the applicable governmental authorities. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

66. ATTORNEY'S FEES; LEGAL COSTS: Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

67. DRUG FREE WORKPLACE: Not applicable

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
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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 to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. PROCUREMENT LAWS: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit 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.

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.

- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is

made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of two 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. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

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.



Suite 1200, 9639 137a Street
 Surrey, BC, CANADA V3T 0M1

Exhibit E

FME Subscription Order Form

Customer Name: City of Denton
Address: 215 East McKinney Street, Denton, Texas 76201, United States
Payment Terms: net 30 days
Currency: USD

Subscription Type: Local Government Subscription
Tier: 150,000 – 249,999
Subscription Start Date:

Contract #: 2025-3956

A) Subscription Details: The Subscription includes access to:

1. Term Software – consisting of an unlimited number of downloadable FME Software licenses (FME Form & FME Flow) valid for the length of the Subscription
2. Updates and technical support (collectively, "Maintenance") for Term Software
3. Maintenance for previously purchased Pre-Existing Software (further described below)
4. Unlimited use of FME Flow CPU hours

B) Pricing: Provided that the Tier is not exceeded, Safe Software agrees to offer annual Subscription Pricing as follows:

Term	Annual Price
Year 1	\$21,750.00
Year 2	\$25,000.00
Year 3	\$30,000.00
Year 4	\$35,000.00

1. Thereafter, Safe Software may adjust the annual Subscription price with notice to you. The Subscription may be renewed for additional terms by Safe accepting your renewal order. Other than price, all other provisions in this Order Form will apply to any subsequent renewal unless an amendment is signed by both parties.

C) Pre-Existing Software: Downloadable FME Software previously purchased by the Customer on a perpetual term basis which the Customer has elected to include in this Subscription is called "PreExisting Software". The following Pre-Existing Software will be included:

Serial #	Product Name	License Use	Quantity
YCTV-KX8F-18WE	FME Flow	Production	1
KVQB-MSPX-18J7	FME Form Floating	Production	1
KVQB-MSPX-18J7	FME Form Floating Concurrent User	Production	4
YCTV-KX8F-18WE	FME Flow Engine	Production	1
SDMB-6N84-20PF	FME Form Fixed	Production	1

D) Additional Terms:

1. All Term Software and Maintenance shall expire at the end of the Subscription. Pre-Existing Software licenses will not expire but their Maintenance will expire at the end of the Subscription.
2. The Subscription does not include access to the FME Flow Hosted application.
3. This Order Form and the click-through FME Software License Agreement govern Customer's use of the downloadable FME Software.
4. Intentionally Omitted.
5. This Order Form is entered into between Safe Software and Customer and may be executed and delivered electronically. The undersigned represent that they are authorized to sign on behalf of and bind their respective party.

City of Denton:

Safe Software Inc.:

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date:

FME[®] SOFTWARE LICENSE AGREEMENT

This FME Software License Agreement ("**Agreement**") is a legal agreement between Safe Software Inc. ("**Safe Software**"), with offices located at Suite 1200 – 9639 137A Street, Surrey, British Columbia, Canada V3T 0M1, and you, **City of Denton** with offices located at 215 East McKinney Street, Denton, Texas 76201, United States for the Software and Related Materials (as defined below). The Agreement is effective as of the date the last party signs the Agreement. If applicable, any additional terms set out in Appendix I form part of this Agreement.

This Agreement is a license from Safe Software and is not a sale of goods. This Agreement gives you limited rights to use Safe Software's proprietary Software and Related Materials. All rights not explicitly granted in this Agreement are reserved to Safe Software.

1. Definitions. The following words shall have the following meanings:

- (a) "**Concurrencies**" means the maximum number of machines, virtual or otherwise, that may use the Software simultaneously.
- (b) "**Engines**" means the proprietary processing cores linked to a license of the Software.
- (c) "**Environment**" means the combination of Software with hardware, third-party applications, and other computing elements for one of the following purposes: disaster recovery (which may include failover), staging (which may include testing, pre-production, quality assurance, or other non-production use), and production.
- (d) "**Software**" means the actual copy of all or any portion of Safe Software's proprietary FME software products, including FME Form, FME Flow, FME Engines, and related software development kits ("**SDKs**"), in any format and includes backups, patches, service packs, updates, extensions, or permitted merged copies.
- (e) "**Related Materials**" means all of the user, reference, operating, training, or related information supplied by Safe Software in printed or electronic form, including new, revised, and corrected documents.

2. Permitted Uses.

- (a) Pursuant to the terms and conditions of this Agreement, Safe Software hereby grants to you a limited, non-exclusive, non-transferable license to install and use the Software and Related Materials as follows:
 - (i) If you acquire a fixed license, you are authorized to install and use one copy of the Software on a single designated physical or virtual machine so that the Software is only accessible to a single user.
 - (ii) If you acquire a floating license authorizing a specified number of Concurrencies, you may install the Software on multiple machines, provided that the number of users using the Software at any one time is not greater than the authorized number of Concurrencies.
 - (iii) If you acquire a server license, you may install the Software without restricting the number of users. A server license may be associated with standard Engines, CPU-usage Engines, or both. You may use no more than the authorized number of standard Engines associated with your server license. You may use an unlimited number of CPU-usage Engines for the duration of the CPU processing hours associated with your server license.
- (b) You may use a Software license in a single Environment only. For example, you must acquire three separate licenses to set up a failover Environment, a staging Environment, and a production Environment. Licenses for different Environments cannot be combined into a single license file.
- (c) You may provide access to and use of the Software to any affiliate, consultant, or contractor solely for your benefit.
- (d) You may make additional copies of the Software and Related Materials only as reasonably required for internal backup protection.

- (e) FME Flow Software may be used as part of a cloud-based application or web service offered to the public, provided that:
 - (i) there must be added functionality or value to your cloud-based application or web service and FME Flow functionality cannot be offered to third parties in a standalone configuration;
 - (ii) third parties must not be able to access administrator functions in FME Flow; and
 - (iii) third parties must not be able to upload or use their own FME workspaces with your cloud-based application or web service.
- (f) When used as part of a cloud-based application or web service, FME Flow may be used to process your own data or third-party data for the benefit of third parties.

3. Uses Not Permitted.

- (a) You are not permitted to:
 - (i) act as a service bureau or application service provider that allows third parties direct access to the Software;
 - (ii) sell, rent, host, lease, sub-license, lend, timeshare, transfer, or otherwise provide unlicensed third parties direct access to the Software;
 - (iii) reverse engineer, decompile, disassemble, alter, modify, or create any derivative works of the Software and Related Materials except to the extent permitted in this Agreement or by law; or
 - (iv) use the Software for any unlawful, illegal, or illicit purposes.
- (b) Except as expressly provided in this Agreement, you may not use the Software to provide paid consulting services to third parties where the primary purpose of such consulting services is to provide data management, translation, or transformation unless the third party has a Software license.
- (c) Other than as part of a cloud-based application or web service that uses FME Flow, you may not use the Software to process third-party data solely for the use and benefit of third parties. You may not use FME Form to provide any stand-alone data translation system or service for third parties.

4. Third-Party Components. The Software may include software components licensed by third parties ("**3rd Party Components**"). Copyright notices and licenses for 3rd Party Components are available in the Legal Notices file located in the "About" box of the Software or may be requested by contacting legal@safe.com. All 3rd Party Components' license terms work in conjunction with this Agreement, and together, they are complete statements of your rights and restrictions with respect to the Software. Where there is a conflict between a 3rd Party Components' license terms and this Agreement, the 3rd Party Components' license terms will prevail.

5. Sample Data, Authorization Credentials, & Encryption Keys.

- (a) You may use the sample data provided with the Software to test, evaluate, and demonstrate features of the Software, and for no other purpose.
- (b) The Software may contain pre-installed authorization keys or credentials (the "**Credentials**") to permit connectivity with various web services. You may only use these Credentials in connection with the Software. Safe Software disclaims all liability for the use of the Credentials, and you acknowledge that Credentials are provided by third-party licensors, are not within the control of Safe Software, and may be disabled without notice. If you use the Software for production purposes, you should obtain your own account and authorization credentials for the web services you plan to use. Instructions for obtaining your own authorization credentials will be included in the Related Materials.
- (c) Safe Software cannot access any data you process using the Software. You are solely responsible for using, storing, and protecting any encryption keys used to encrypt static data processed using the Software. Safe Software is unable to access or recover any lost encryption keys.

6. Privacy. Safe Software will process personal data according to the terms of its Privacy Policy located at www.safe.com/privacy. The Software may collect anonymous usage statistics upon Software activation. Safe

Software uses statistics to identify trends and patterns to improve the Software and Related Materials. In FME Form, you may turn off usage statistics by going to the Tools tab -> FME Options -> Workbench tab.

7. License Exchange. All upgraded and replacement licenses are provided to you on a license exchange basis. You agree to uninstall the old Software license upon installation of a new Software license when you upgrade the Software from one license type to another (for example, from fixed to floating) or move the Software to a new machine. You voluntarily terminate your rights to use the old Software license, except to the extent that the old Software license is required to transition to the new Software license.

8. Ownership & Copyright. Safe Software and its 3rd Party Component licensors retain exclusive title to and ownership of any copy of the Software and Related Materials licensed under this Agreement. Copyright laws and applicable international treaties and conventions protect the Software and Related Materials. The structure, organization, and code are the valuable trade secrets of Safe Software and its licensors. You agree:

- (a) you will not remove, obscure, or deface any logo, notice, trademarks, or legend of copyright from the Software or any Related Materials;
- (b) you have no right to use any of Safe Software's trade names, trademarks, service marks, logos, domain names, or other distinctive brand features;
- (c) not to export the Software and Related Materials into a country that does not have copyright laws that will protect Safe Software's proprietary rights; and
- (d) to use reasonable efforts to protect the Software and Related Materials from unauthorized use, reproduction, distribution, or publication.

9. Third-Party Applications for the Software.

- (a) If you use the Software in conjunction with software, interfaces, application programming interfaces ("APIs"), plugins, products, or other services developed, operated, or provided by any party other than Safe Software (collectively, "Third-Party Applications"), you agree that you are solely responsible for acquiring the license and rights to use the Third-Party Applications. You are solely responsible for your use of the Third-Party Applications and any data loss or other losses or damages you may suffer as a result of using such Third-Party Applications. Safe Software does not warrant or support any Third-Party Applications or control the privacy practices of any Third-Party Application, whether or not they are recommended by Safe Software. Notwithstanding any other term in this Agreement, Safe Software shall have no responsibility, liability or indemnification obligations for any claims, losses or damages arising out of or in connection with your use of any Third-Party Applications. Safe Software does not guarantee compatibility with any Third-Party Applications, and Safe Software shall not be responsible for any changes or new developments in Third-Party Applications that may interrupt your use of the Software.
- (b) You will ensure that any license terms for such Third-Party Applications do not:
 - (i) create, or purport to create, obligations for Safe Software or its 3rd Party Component licensors with respect to the Software;
 - (ii) grant, or purport to grant, any rights to Safe Software's or its 3rd Party Component licensors' intellectual property; or
 - (iii) grant, or purport to grant, any immunities under this Agreement.

10. Feedback. If you or your employees, contractors, or agents provide any feedback, suggestions, improvements, or other input regarding the Software or Related Materials (collectively, "Feedback") to Safe Software, you grant Safe Software a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, copy, modify, distribute, and create derivative works from the Feedback for any purpose, including improving and marketing the Software and Related Materials. You acknowledge and agree that you will not receive any compensation or recognition for any Feedback provided, and that Safe Software is not obligated to use or act upon any Feedback. You further represent and warrant that you have the necessary rights to provide the Feedback and that providing such Feedback does not violate any obligations you have to third parties.

11. Export Controls. You acknowledge and understand that the Software may be subject to export controls and sanctions laws (the “**Export Controls**”) in Canada, the USA, or other jurisdictions. You will not access or use the Software in a manner that would cause either party to violate any Export Controls, including access to or use of the Software in embargoed countries or regions, or use the Software for any prohibited end use that requires special licenses or permits (i.e., any nuclear, chemical or biological weapons proliferation).

12. Assignment. You shall not assign any of your rights under this Agreement without the prior written consent of Safe Software, which will not be unreasonably withheld. Any purported assignment without such consent shall be null and void. Safe Software shall provide prompt, written notice of assignment to City of Denton.

13. Term.

- (a) Any Software acquired under a subscription plan will expire at the end of the subscription term.
- (b) Any Software acquired on an individual license basis for a production Environment will be licensed in perpetuity unless specified elsewhere in this Agreement, in a separate written agreement signed by both parties, or as otherwise specified in the ordering documents for such Software.
- (c) CPU-usage plans for Engines will expire when you have used all CPU processing hours permitted in the ordering documents or, if CPU processing hours have been unused for more than one year, then Safe Software may expire any remaining hours after providing thirty (30) days’ prior notice to you. You understand that, under a CPU-usage plan, the Software will track the number of CPU processing hours used and the Engines will be disabled when all ordered CPU processing hours have been consumed.
- (d) Any related support and maintenance services for perpetual licenses may be ordered in annual increments and may require additional payments.

14. Termination.

- (a) This Agreement is valid for the term of the Software acquired unless terminated earlier as set out below.
- (b) This Agreement and the corresponding right to use the Software may be terminated immediately if either party breaches this Agreement and fails to cure the breach within 30 days after delivery of written notice of such breach.
- (c) Safe Software will not issue any refunds for early termination unless termination is due to Safe’s breach as set out in subsection (b).
- (d) On termination or expiration, you shall uninstall the Software, Related Materials, and any whole or partial copies, modifications, and merged portions in any form.
- (e) The parties agree that all provisions that protect Safe Software's rights shall remain in force upon termination or expiry.

15. Limited Warranty. Safe Software warrants that it has the power to grant the license rights described in this Agreement. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAFE SOFTWARE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, USE OF REASONABLE SKILL AND CARE, OR FITNESS FOR ANY PARTICULAR PURPOSE. THE SOFTWARE IS PROVIDED “AS IS” AND WITH ALL DEFECTS AND ERRORS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SAFE SOFTWARE ASSUMES NO LIABILITY FOR DAMAGE TO ANY SYSTEM ON WHICH THIS SOFTWARE IS INSTALLED, FOR CORRUPTION OF ANY DATA TRANSLATED BY THE SOFTWARE, OR FOR LOSSES ARISING IN THE EVENT THIRD PARTIES ARE ABLE, FOR ANY REASON, TO USE OR ACCESS THE SOFTWARE OR YOUR DATA OR SERVICES WITHOUT CHARGE.

16. Special Disclaimers.

- (a) **Artificial Intelligence (AI) Disclaimer.** As described in the Related Materials, the Software may integrate third-party or first-party AI-powered functionality. You may use this AI functionality at your option, and such AI functionality is delivered “AS IS” and without warranty of any kind. Safe Software fully disclaims any liability or indemnities relating to claims arising from your use of AI-powered functionality.

(b) Data Sources. You are solely responsible for the integrity, security, confidentiality, and availability of any data, images, files, resources or other inputs (collectively, “**Data Sources**”) you access or process using the Software. Safe Software fully disclaims any liability or indemnities relating to claims arising from your use of corrupted, vulnerable, insecure or otherwise unreliable Data Sources.

17. Infringement Indemnity. This section states Safe Software’s entire obligation for infringement.

- (a) Safe Software will defend and indemnify you from any action brought against you to the extent that it is based on a claim that the Software or Related Materials infringe a copyright, patent, trademark, or other intellectual property right of any third party, provided that:
- (i) Safe Software is promptly notified in writing of the claim;
 - (ii) you provide Safe Software with reasonable assistance, information, and authority necessary to negotiate and settle the claim;
 - (iii) such claim does not arise from the use of a superseded or modified release of the Software if such infringement would have been avoided by the use of the current or unmodified release of the Software; and
 - (iv) such a claim does not arise from the use, operation, or combination of the Software with Third-Party Applications, data, equipment, or materials not provided by Safe Software if such infringement would have been avoided by use of the Software without such Third-Party Applications, data, equipment, or materials.
- (b) Should the Software become, or in Safe Software’s opinion be likely to become, the subject of any claim of infringement, then you will permit Safe Software, at Safe Software’s option and expense, either to:
- (i) procure for you the right to continue using the Software; or
 - (ii) replace or modify all or a portion of the Software so that it is non-infringing.
- (c) If, in Safe Software’s reasonable opinion, neither of the remedies set out above are available or practical, Safe Software may terminate this Agreement and refund any fees you paid to Safe Software in the last 12 months.

18. LIMITATION OF LIABILITY. Intentionally Omitted.

19. No Implied Waivers. Any failure or delay by Safe Software in enforcing any right or remedy under this Agreement shall not be a waiver of any term or condition of this Agreement nor any subsequent breach thereof.

20. Order of Precedence. Intentionally Omitted.

21. Language. French and other language translations of this Agreement are available at <https://www.safe.com/legal/fme-sla-translations/>. If there is a conflict between English and non-English versions, the English-language version will prevail.

22. Applicable Law. The laws of the State of Texas , govern this Agreement. Any disputes shall be resolved by arbitration or in a court of competent jurisdiction in Denton County, Texas, USA.

23. Validity. If any provision of this Agreement is found to be unenforceable or invalid by a court of competent jurisdiction, such provision will be interpreted so as best to accomplish its objectives and the remainder of this Agreement will remain valid.

24. No Other Rights Granted. Except as expressly provided, no other right or license is granted under this Agreement.

25. Limitations. City is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on City property; disclaimers and limitations of warranties; disclaimers and limitation of liability for damages; waivers, disclaimers, and limitation on litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney’s fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on City, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties. This Agreement may be executed and delivered electronically or in two or more counterparts, each of which when so executed shall be deemed an original, but all of which together shall constitute one and the same instrument. The undersigned represent that they are authorized to sign on behalf of, and bind, their respective party.

For City of Denton :

For Safe Software Inc:

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX I - ADDITIONAL TERMS

The following additional terms may apply to specific license scenarios. In the event of a conflict between these additional terms and any previous terms in this Agreement, these additional terms will apply.

- A. IF YOU ELECT “YES” TO INSTALL AN SDK DURING SETUP, this paragraph also applies to your use of the Software and Related Materials. You may use the SDK solely to design, develop, and test applications that interface with the Software and for no other purpose. You agree that you are solely responsible for any applications created using the SDK.
- B. IF THE SOFTWARE IS LICENSED UNDER AN EVALUATION LICENSE, this paragraph also applies to your use of the Software and Related Materials. The term for these licenses will be limited. Software under an evaluation license cannot be used for any production purposes. It must be used solely for evaluations, demonstrations, proof of concepts, prototypes, and self-learning.
- C. IF THE SOFTWARE IS LICENSED UNDER A WORK EXTENSION LICENSE, this paragraph also applies to your use of the Software and Related Materials. The term for these licenses will be limited. You must have a paid, production license of the Software under active maintenance to be eligible for a Work Extension License. Work Extension Licenses are for learning, evaluating, and experimental purposes only. You may not use a Work Extension License for production use, including, but not limited to, running production workflows, testing production workflows, or creating workflows that will be run in a production Environment.
- D. IF THE SOFTWARE IS LICENSED UNDER A HUMANITARIAN, RESEARCH, OR NON-PROFIT GRANT LICENSE, this paragraph also applies to your use of the Software and Related Materials. The term for these licenses will be limited. Software under these licenses cannot be used for any commercial purpose and must be used solely for the projects approved by Safe Software during the application process.
- E. IF THE SOFTWARE IS LICENSED UNDER A STUDENT, INSTRUCTOR, TRAINING, OR OTHER EDUCATIONAL LICENSE, this paragraph also applies to your use of the Software and Related Materials. The term for these licenses will be limited. Software under these licenses cannot be used for any production or commercial purposes and must be used solely for training, demonstrations, and education.
- F. IF THE SOFTWARE IS LICENSED UNDER A RECENT GRADUATE LICENSE (“**Grad License**”), this paragraph also applies to your use of the Software and Related Materials. The term for Grad Licenses will be limited. Grad Licenses may be used at your place of employment for production or commercial use for your employer's benefit, provided that the Grad License is used solely by you as the named user and licensee.
- G. IF THE SOFTWARE IS LICENSED UNDER A DEMO LICENSE, this paragraph also applies to your use of the Software and Related Materials. The term for demo licenses will be limited. Software under a demo license cannot be used for production purposes or to provide paid services to third parties. Demo licenses are to be used solely for demonstrations, evaluations, training, internal learning, proof of concepts, and prototypes. Additional usage rights may be agreed upon between the parties as part of a signed agreement.
- H. IF THIS SOFTWARE, OR A COMPONENT OF THE SOFTWARE, IS LABELED AS “BETA”, “TECHNICAL PREVIEW”, OR “RELEASE CANDIDATE”, this paragraph also applies to your use of the Software and Related Materials. Beta, Technical Preview, and Release Candidate versions of the Software, or components within the Software, are considered pre-release software and may contain defects and errors. You accept all risks of using these versions of the Software whether or not the risks are foreseeable or reasonable.
- I. IF YOU DOWNLOAD AND INSTALL CONTENT FROM THE FME HUB FOR USE WITH THE SOFTWARE, this paragraph also applies. Third parties may provide FME Hub content. Such third-party content is not tested, verified, or supported by Safe Software. You agree to accept all risks of downloading and using FME Hub content whether or not the risks are foreseeable or reasonable.

- J. U.S. GOVERNMENT RESTRICTED RIGHTS: If the Software and Related Materials are acquired directly or indirectly on behalf of a unit or agency of the United States Government, this paragraph applies. The Software and Related Materials are commercial items, developed at private expense and are the trade secrets of Safe Software. You agree that the Software and Related Materials are licensed with restricted rights under the terms of this Agreement under FAR Subparts 12.211/12.212, DFARS Subpart 227.7202, or any successor provisions.

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.

Safe Software Inc.

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

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

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

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?
 Yes No
- B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?
 Yes No
- C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?
 Yes No
- D. Describe each employment or business and family relationship with the local government officer named in this section.

4 I have no Conflict of Interest to disclose.

5 DocuSigned by:
Angela McGeachan

8/5/2025

4A5083C0AC5E401
Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

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

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 90B7BA22-0EA6-42C7-85F6-F69F5712E245
 Subject: Please DocuSign: City Council Contract 8756 FME Software Maintenance Support
 Source Envelope:
 Document Pages: 40
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Cori Power
 901B Texas Street
 Denton, TX 76209
 cori.power@cityofdenton.com
 IP Address: 198.49.140.10

Record Tracking

Status: Original
 8/4/2025 8:12:11 AM

Holder: Cori Power
 cori.power@cityofdenton.com

Location: DocuSign

Signer Events

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

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

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

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

Completed

Using IP Address: 198.49.140.10

Completed

Using IP Address: 198.49.140.10

Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.104

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 Using IP Address: 198.49.140.10

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 Viewed: 8/5/2025 12:46:55 PM
 Signed: 8/5/2025 12:56:19 PM

Signer Events	Signature	Timestamp
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Angela McGeachan
 Angela.McGeachan@safe.com
 General Counsel
 Safe Software Inc.
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 4A5093C0AC5E401...
 Signature Adoption: Pre-selected Style
 Using IP Address: 72.2.40.92

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 Signed: 8/5/2025 6:42:24 PM

Electronic Record and Signature Disclosure:
 Accepted: 8/5/2025 6:05:20 PM
 ID: d31beb2d-5766-468a-82a9-767be0469127

Leisha Meine
 Leisha.Meine@cityofdenton.com
 Chief Technology Officer
 City of Denton
 Security Level: Email, Account Authentication (None)

DocuSigned by:

 D60D157ADABC4D5...
 Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.10

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 Signed: 8/6/2025 8:22:05 AM

Electronic Record and Signature Disclosure:
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Cori Power
 cori.power@cityofdenton.com
 Purchasing Supervisor
 City of Denton
 Security Level: Email, Account Authentication (None)

Completed
 Using IP Address: 198.49.140.10

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 Signed: 8/6/2025 2:12:08 PM

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

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

Sent: 8/6/2025 2:12:11 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
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block; font-weight: bold; color: blue; font-size: 1.2em;">COPIED</div>	<p>Sent: 8/4/2025 8:29:46 AM</p>
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<p>Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div style="border: 2px solid blue; padding: 5px; display: inline-block; font-weight: bold; color: blue; font-size: 1.2em;">COPIED</div>	<p>Sent: 8/6/2025 8:22:10 AM Viewed: 8/6/2025 4:28:41 PM</p>
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<p>City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
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<p>Drew Allen drew.allen@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
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<p>Stephanie Padgett Stephanie.Padgett@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	8/4/2025 8:29:17 AM
Envelope Updated	Security Checked	8/4/2025 10:23:56 AM
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Envelope Updated	Security Checked	8/4/2025 10:23:56 AM

Payment Events	Status	Timestamps
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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.

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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.

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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 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:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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



City of Denton

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

Legislation Text

File #: ID 25-1504, **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 Boot Barn, Inc., for the citywide full service boot program for various city departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8769 - awarded to Boot Barn 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 \$750,000.00).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Boot Barn, Inc., for the citywide full service boot program for various city departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8769 – awarded to Boot Barn 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 \$750,000.00).

INFORMATION/BACKGROUND

The City of Denton currently purchases safety footwear for field service employees from Red Wing Brands of America, Inc., utilizing GSA Contract #47QSWA22D00AB. This federal contract provides fixed pricing for special-purpose safety footwear based on individual and department requirements. These boots are essential for employee protection and help reduce workplace injuries. Departments that utilize this contract include Water, Wastewater, Solid Waste, Denton Municipal Electric (DME), Parks, Streets, Traffic, Airport, Facilities, and Warehouse.

Recently, several departments have reported challenges with the availability of Red Wing safety boots. Due to ongoing supply chain and economic factors, the selection of special-purpose boots has become limited or unavailable. As a result, the city is experiencing a shortage of the required styles and specifications of safety footwear.

To address this issue, Boot Barn Inc. has been selected by the evaluation committee to be a better supplier with a robust inventory of safety-specific boots that meet the City’s needs. We have estimated, based on historical spend, that the city purchases roughly 599 pairs of safety boots per year.

Project Description	Spend
Year One	\$135,000
Year Two	135,000
Year Three	135,000
Year Four	135,000
Year Five	135,000
Contingency - 10%	75,000
Total:	\$750,000

Request for Proposals was sent to 132 prospective suppliers, including eight (8) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Three (3) proposals were received, references were checked, and proposals were evaluated based upon published criteria, including price, delivery, compliance with specifications, and probable performance. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Boot Barn, Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	800 – Shoes and Boots
Notifications sent for Solicitation sent in IonWave:	132
Number of Suppliers that viewed Solicitation in IonWave:	23
HUB-Historically Underutilized Business Invitations sent out:	23
SBE-Small Business Enterprise Invitations sent out:	57
Responses from Solicitation:	3

RECOMMENDATION

Award a contract with Boot Barn, Inc., for the citywide full service boot program for various city departments, 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 \$750,000.

PRINCIPAL PLACE OF BUSINESS

Boot Barn, Inc.
Irvine, CA

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for two (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products will be funded through the using department’s budget. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$750,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: Steve Swanberg, 940-349-7808.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8769 - Pricing Evaluation for City-Wide Full Service Boot Program

					Respondent's Business Name:		Tyndale Company, Inc.		ETX Safety Source	
					Principal Place of Business (City and State):		Pipersville, TX		Ben Wheeler, TX	
Line #	Item #	Construction Unit	UOM	Est Annual Qty	Unit Price	Extended Price	Unit	Extended	Unit	Extended
Ariat										
1	L9NZZ	6" Treadfast Waterproof Steel Toe Work Boot	Pair	14	\$139.95	\$1,959.30	\$121.75	\$1,704.50	\$99.25	\$1,389.50
2	L9HFZ	9" Women's Composite Toe Pull-On Boots, Uninsulated	Pair	14	\$148.70	\$2,081.80	\$150.60	\$2,108.40	no bid	\$2,108.40
3	L9MWX	Rebar Lift Women's 6" Composite Toe Work Boot	Pair	14	\$144.45	\$2,022.30	\$155.10	\$2,171.40	\$135.20	\$1,892.80
4	L9MWZ	6" Edge LTE Chukka Waterproof Composite Toe Work Boot	Pair	14	\$144.45	\$2,022.30	\$164.15	\$2,298.10	\$135.20	\$1,892.80
5	L9BEX	10" Sierra Steel Toe Boot, Uninsulated	Pair	14	\$144.45	\$2,022.30	\$174.05	\$2,436.70	\$144.00	\$2,016.00
6	L9MXZ	6" Rebar Composite Toe Boot	Pair	14	\$161.45	\$2,260.30	\$174.05	\$2,436.70	\$152.00	\$2,128.00
7	L9MYX	8" Rebar Composite Toe Boot	Pair	14	\$169.95	\$2,379.30	\$183.10	\$2,563.40	\$160.00	\$2,240.00
8	L9BDX	11" WorkHog Wide Square Steel Toe Boot, Uninsulated	Pair	14	\$186.99	\$2,617.86	\$202.05	\$2,828.70	\$172.00	\$2,408.00
9	L9MSZ	11" Waterproof Square Composite Toe Work Boot	Pair	13	\$174.20	\$2,264.60	\$226.40	\$2,943.20	no bid	\$2,943.20
Blaklader										
10	L9CZX	6" Elite Composite Toe Safety Boot	Pair	5	\$161.50	\$807.50	\$161.45	\$807.25	\$136.00	\$680.00
11	L9CYX	6" Elite Freelock Waterproof Boot	Pair	5	\$161.49	\$807.45	\$178.60	\$893.00	\$152.00	\$760.00
12	L9CXX	8" Elite Insulated Waterproof Composite Toe Boot	Pair	5	\$182.74	\$913.70	\$196.65	\$983.25	\$168.00	\$840.00
Carhartt										
13	L9ACC	6" Rugged Flex Composite Toe Boot	Pair	14	\$144.49	\$2,022.86	\$138.85	\$1,943.90	\$136.00	\$1,904.00
14	L9LZX	6" Women's Rugged Flex Composite Toe Work Boot	Pair	13	\$127.99	\$1,663.87	\$138.85	\$1,805.05	\$112.00	\$1,456.00
15	L9JYZ	6" Rugged Flex Waterproof Composite Toe Work Boot	Pair	13	\$144.99	\$1,884.87	\$165.95	\$2,157.35	\$136.00	\$1,768.00
16	L9GFZ	8" Rugged Flex Insulated Composite Toe Work Boot	Pair	13	\$161.49	\$2,099.37	\$184.00	\$2,392.00	\$152.00	\$1,976.00
17	L9AEC	11" Wellington Steel Toe Boot	Pair	13	\$165.74	\$2,154.62	\$188.50	\$2,450.50	\$156.00	\$2,028.00
18	L9AJC	8" Composite Toe Logger Boot	Pair	13	\$182.74	\$2,375.62	\$188.50	\$2,450.50	\$160.00	\$2,080.00
19	L9ANC	8" Composite Toe Logger Boot	Pair	13	\$140.24	\$1,823.12	\$193.00	\$2,509.00	\$160.00	\$2,080.00
20	L9NGC	11" Women's Ironwood Wellington Waterproof Steel Toe Boot	Pair	13	\$150.44	\$1,955.72	\$193.00	\$2,509.00	\$160.00	\$2,080.00
Georgia Boot										
21	L9ZJX	8" Insulated Waterproof Steel Toe Work Boot	Pair	5	\$127.99	\$639.95	\$177.70	\$888.50	\$138.00	\$690.00
HH Brown										
22	L9NKX	11" WP Composite Toe Boot	Pair	10	\$152.99	\$1,529.90	\$185.80	\$1,858.00	\$156.00	\$1,560.00
23	L9NHX	11" Wide Square Steel Toe Boot	Pair	5	\$152.99	\$764.95	\$268.85	\$1,344.25	\$164.00	\$820.00
Hoffman										
24	L9KLX	6" Classic Composite Toe Work Boot	Pair	1	\$165.74	\$165.74	\$423.15	\$423.15	\$276.00	\$276.00
Keen										
25	L9JAZ	6" Pittsburgh Waterproof Steel Toe Work Boot	Pair	8	\$170.00	\$1,360.00	\$178.60	\$1,428.80	\$164.00	\$1,312.00
26	L9DVZ	6" Mid Leather Steel Toe Boot	Pair	7	\$178.50	\$1,249.50	\$198.45	\$1,389.15	\$132.00	\$924.00
Kodiak										
27	L9NGB	6" Women's Bralorne Composite Toe Work Boot	Pair	15	\$152.99	\$2,294.85	\$155.10	\$2,326.50	\$144.00	\$2,160.00
Rocky										
28	L9YQX	6" Steel Toe Work Boot	Pair	8	\$148.74	\$1,189.92	\$151.50	\$1,212.00	\$89.00	\$712.00
29	L9ZBX	11" Original Ride Branson Steel Toe Waterproof Work Boot	Pair	7	\$150.45	\$1,053.15	\$190.30	\$1,332.10	\$148.00	\$1,036.00

Exhibit 2
RFP 8769 - Pricing Evaluation for City-Wide Full Service Boot Program

					Respondent's Business Name:		Tyndale Company, Inc.		ETX Safety Source	
					Principal Place of Business (City and State):		Pipersville, TX		Ben Wheeler, TX	
Line #	Item #	Construction Unit	UOM	Est Annual Qty	Unit Price	Extended Price	Unit	Extended	Unit	Extended
Thorogood										
30	L9LRZ	6" Crazyhorse Steel Toe Boot	Pair	38	\$259.24	\$9,851.12	\$247.15	\$9,391.70	\$215.00	\$8,170.00
31	L9BWZ	8" Steel Toe Boot	Pair	37	\$267.74	\$9,906.38	\$256.20	\$9,479.40	\$223.00	\$8,251.00
Timberland										
32	L9MZX	6" Women's Titan EV Waterproof Composite Toe Boot	Pair	7	\$131.70	\$921.90	\$143.40	\$1,003.80	\$124.00	\$868.00
33	L9FPX	6" Women's Waterproof Alloy Toe Work Boots	Pair	6	\$131.75	\$790.50	\$147.90	\$887.40	\$128.00	\$768.00
34	L9NGZ	6" Titan EV Composite Toe Waterproof Work Boot	Pair	6	\$148.74	\$892.44	\$151.50	\$909.00	\$124.00	\$744.00
35	L9NHZ	6" Titan EV Composite Toe Waterproof Work Boot	Pair	6	\$148.74	\$892.44	\$151.50	\$909.00	\$132.00	\$792.00
36	L9NKZ	6" Women's Direct Attach Waterproof Steel Toe Insulated Boot	Pair	6	\$131.75	\$790.50	\$151.50	\$909.00	\$132.00	\$792.00
37	L9AAZ	6" Timberland PRO Direct Attach Steel Toe Boots, Waterproof, Insulated	Pair	6	\$144.99	\$869.94	\$158.75	\$952.50	\$112.00	\$672.00
38	L9PVX	8" Timberland PRO Direct Attach Steel Toe Boots, Waterproof, Insulated	Pair	6	\$144.99	\$869.94	\$166.85	\$1,001.10	\$144.00	\$864.00
39	L9WTX	10" PRO Wellington Steel Toe Boot	Pair	6	\$170.00	\$1,020.00	\$171.35	\$1,028.10	\$164.00	\$984.00
40	L9AGX	6" Timberland PRO Hyperion Alloy Toe Work Boots, Waterproof, Uninsulated	Pair	6	\$169.99	\$1,019.94	\$174.95	\$1,049.70	\$152.00	\$912.00
41	L9RBX	8" Timberland PRO Rigmaster Steel Toe Work Boots, Waterproof, Uninsulated	Pair	6	\$161.49	\$968.94	\$186.70	\$1,120.20	\$160.00	\$960.00
42	L9BJZ	8" Timberland PRO Boondock Comp Toe Work Boots, Rubber Toe, Waterproof, Uninsulated	Pair	7	\$186.95	\$1,308.65	\$211.05	\$1,477.35	\$184.00	\$1,288.00
43	L9BCX	8" Timberland PRO Boondock Comp Toe Work Boots, Waterproof, Insulated	Pair	7	\$212.45	\$1,487.15	\$214.70	\$1,502.90	\$188.00	\$1,316.00
Twisted X										
44	L9NNZ	11" Women's Composite Toe Boot	Pair	7	\$139.95	\$979.65	\$178.60	\$1,250.20	\$184.00	\$1,288.00
45	L9CKZ	12" Lite Cowboy Steel Toe Work Boot	Pair	6	\$183.55	\$1,101.30	\$183.10	\$1,098.60	\$184.00	\$1,104.00
46	L9EZX	6" Waterproof Nano Composite Toe Work Boot	Pair	6	\$161.44	\$968.64	\$185.80	\$1,114.80	\$176.00	\$1,056.00
47	L9HBX	12" Alloy Toe Lite Cowboy Work Boot	Pair	6	\$203.95	\$1,223.70	\$185.80	\$1,114.80	\$160.00	\$960.00
Wolverine										
48	L9NMZ	6" Women's Piper Waterproof Composite Toe Boot	Pair	25	\$114.70	\$2,867.50	\$131.65	\$3,291.25	\$108.00	\$2,700.00
49		*Discount percentage on Catalog for boots not listed above			15%		10%		20%	
Total:					\$87,117.35		\$94,085.15		\$80,649.70	

Evaluation				
Item #	Standard Criteria	Boot Barn, Inc.	Tyndale Company, Inc.	ETX Safety Source
1	Delivery/Project Schedule - 10%	8.67	8.00	5.33
2	Compliance with Specifications - 15%	14.00	11.00	11.00
3	Probable Performance - 25%	23.33	21.67	8.33
4	Price, Total Cost of Ownership - 50%	46.29	42.86	50.00
Total Score:		92.29	83.53	74.66

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BOOT BARN, INC., FOR THE CITYWIDE FULL SERVICE BOOT PROGRAM FOR VARIOUS CITY DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8769 – AWARDED TO BOOT BARN 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 \$750,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the citywide full service boot program for various city departments; 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.

<u>RFP</u> <u>NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8769	Boot Barn, Inc.	\$750,000.00

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 _____ 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.

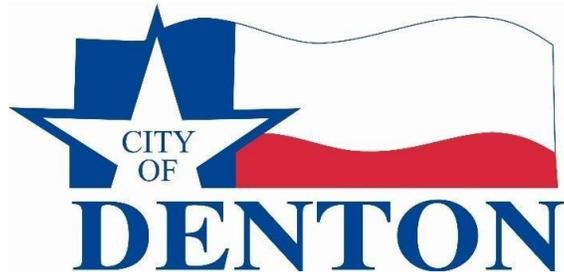
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

RFP	8769
File Name	City-wide Full Service Boot Program
Purchasing Contact	Christina Dormady
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND BOOT BARN, INC.
(Contract #8769)**

THIS CONTRACT is made and entered into this date _____, by and between Boot Barn, Inc. a Delaware corporation, whose address 15776 Laguna Canyon Road, Irvine, CA 92618, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City,” to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City’s RFP# 8769 – City-Wide Full Service Boot Program, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton’s RFP 8769 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) 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” 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.

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

Signed by:

Megan Gilbreath

Megan Gilbreath

68310A57DA34F7J
SIGNATURE

PRINTED NAME

HR Director

TITLE

Human Resources

DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

BY *Marcella Lunn*

4B070831B4AA438...

DocuSigned by:
CONTRACTOR

BY *Billy Ledet*

1D91E0B04E7742D
AUTHORIZED SIGNATURE

Printed Name: Billy Ledet

Title: REGIONAL MANAGER

346-330-0604

PHONE NUMBER

bledet@bootbarn.com

EMAIL ADDRESS

bledet@bootbarn.com

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____

SARA HENSLEY
CITY MANAGER

Exhibit A **Special Terms and Conditions**

1. 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.

2. Product Changes During Contract Term

The Contractor shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to purchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the contractor's expense. Products that have been installed will be replaced at the contractor's expense.

3. Authorized Distributor

The Contractor shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton, and make available the manufacturer's representative as needed by the City.

4. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Contractor 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 Contractor'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.

5. Price Escalation and De-escalation

On Contractor'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 Contractor should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

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

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

6. Total Contract Amount

The contract total shall not exceed \$750,000. Pricing shall be per Exhibit **E** attached.

7. Delivery Lead Time

Product or services shall be delivered to the City per the days/weeks noted in Exhibit E after receipt of the order.

8. 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.

Exhibit B
City of Denton's RFP 8769 File

On File at the Office of the Purchasing Agent

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

Contract 8769

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 (15th) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have
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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

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 Contract 8769

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,

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 Contract 8769

Solicitation and the Insurance Exhibit.

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL:** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS:** The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon

delivery of such deliverables to the City or at such other time as the City may request.

C. **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

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

42. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

44. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

45. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances 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

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.

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

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.

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/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.

Exhibit E

RFP #8769 Pricing Sheet for City-wide Full Service Boot Program				
Vendor Name			BOOT BARN INC	
				Percent off of Retail Price
	Discount percentage on the Catalog for boots			15%
	Must be ordered in-store to received discount			

Shipping Leadtimes

If the style of boot is in stock at any brick-and-mortar location or any of the warehouses, fulfillment will be 3 to 5 business days.

If the style of boot needs to be fulfilled by the manufacturer, the lead time will be 7 to 10 business days.

No Deliveries or Shipping on Weekends

Dates shown are not guaranteed

Boots must be ordered in-store to received discount

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

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

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

By law this questionnaire must be filed with the records administrator of the local 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 under this section is a misdemeanor.

OFFICE USE ONLY	
Date Received	

1 Name of vendor who has a business relationship with local governmental entity.

BOOT BARN 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 is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

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 or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Billy Ledet

Signature of vendor doing business with the governmental entity

4/09/2025

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
- (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

Certificate Of Completion

Envelope Id: 866418DB-5690-45D7-AF45-A31801CD1007
 Subject: Please DocuSign: City Council Contract 8769 City-wide Full Service Boot Program
 Source Envelope:
 Document Pages: 32
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Christina Dormady
 901B Texas Street
 Denton, TX 76209
 christina.dormady@cityofdenton.com
 IP Address: 198.49.140.104

Record Tracking

Status: Original
 7/31/2025 9:47:47 AM

Holder: Christina Dormady
 christina.dormady@cityofdenton.com

Location: DocuSign

Signer Events

Christina Dormady
 christina.dormady@cityofdenton.com

Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Billy Ledet
 bledet@bootbarn.com
 REGIONAL MANAGER
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Accepted: 8/5/2025 12:52:34 PM
 ID: 231b75d7-8380-4dba-9a56-06c1e0f57be1

Signature

Completed

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Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.104

DocuSigned by:
 Marcella Lunn
 4B070831B4AA438...

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

DocuSigned by:
 Billy Ledet
 D5CECDB74E7F47D...

Signature Adoption: Pre-selected Style
 Using IP Address: 67.198.56.48

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 Signed: 7/31/2025 9:52:27 AM

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 Signed: 8/4/2025 9:10:45 AM

Sent: 8/4/2025 9:10:46 AM
 Resent: 8/5/2025 10:44:58 AM
 Viewed: 8/5/2025 12:41:57 PM
 Signed: 8/5/2025 12:45:28 PM

Sent: 8/5/2025 12:45:31 PM
 Viewed: 8/5/2025 12:52:34 PM
 Signed: 8/5/2025 12:53:31 PM

Signer Events

Megan Gilbreath
Megan.gilbreath@cityofdenton.com
HR Director
City of Denton - Human Resources
Security Level: Email, Account Authentication (None)

Signature

Signed by:

66BE10A57DF34F7...
Signature Adoption: Pre-selected Style
Using IP Address:
2600:100c:b2ba:2cf6:f4d2:a48b:f35f:2784
Signed using mobile

Timestamp

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Resent: 8/6/2025 9:27:19 AM
Viewed: 8/7/2025 8:04:55 AM
Signed: 8/7/2025 8:06:25 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Sent: 8/7/2025 8:06:30 AM

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:
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In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

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

COPIED

Sent: 7/31/2025 9:52:28 AM

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: 8/7/2025 8:06:29 AM
Viewed: 8/7/2025 9:44:41 AM

Carbon Copy Events	Status	Timestamp
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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

Steve Swanberg
Steve.Swanberg@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	8/7/2025 9:12:05 AM

Payment Events	Status	Timestamps
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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:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1505, 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 SHI Government Solutions, Inc., through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 230105, for the procurement of the NEOGOV Suite for the Human Resources Department; providing for the expenditure of funds therefor; and providing an effective date (File 8893 - awarded to SHI Government Solutions, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,136,407.66).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 SHI Government Solutions, Inc., through The Interlocal Purchasing System (TIPS) Cooperative Program Contract No. 230105, for the procurement of the NEOGOV Suite for the Human Resources Department; providing for the expenditure of funds therefor; and providing an effective date (File 8893 – awarded to SHI Government Solutions, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,136,407.66).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

INFORMATION/BACKGROUND

In 2005, the City implemented NEOGOV Insight, an online applicant tracking system used to post jobs, screen applicants, and hire employees.

In 2015, the City purchased the Talent Management system for performance reviews and the Cornerstone system to manage Human Resources (HR) training.

In 2019, HR procured Oracle HCM to replace the existing HR systems. As a result, the NEOGOV and Talent Management contracts were canceled, and the Cornerstone contract was extended until October 2020 to allow time for implementation. However, in March of 2020, the Oracle system implementation was found to be cost-prohibitive. HR moved to cancel the Oracle contract and reinstated the NEOGOV applicant tracking system (Insight), added the On-Board module, and integrated with the existing JDE system. A Learning Management System was also acquired in July 2020, which tracks employee training, offers existing training courses, and creates, posts, and manages course content.

In 2025, HR plans to continue utilizing the NEOGOV suite contract, excluding the benefits module, through SHI Government solutions. During the fiscal year 2025-26, HR intends to evaluate more comprehensive solutions to meet all HRIS needs. The year-over-year amount has been adjusted to reflect an estimated 10% increase.

NEOGOV Suite Minus Benefits Module (Base Cost)	Costs
FY 25-26	\$201,455.00
FY 26-27	201,455.00
FY 27-28	221,600.50
FY 28-29	243,760.55
FY 29-30	268,136.61
Total:	\$1,136,407.66

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 SHI Government Solutions, Inc., for the procurement of the NEOGOV Suite for the Human Resources Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,136,407.66.

PRINCIPAL PLACE OF BUSINESS

SHI Government Solutions, Inc.
Austin, 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 terms and conditions remaining the same. This TIPS contract expires on May 31, 2028.

FISCAL INFORMATION

These services will be funded from the Human Resources Department Operating Funds. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$1,136,407.66.

EXHIBITS

- Exhibit 1: Agenda Information Sheet
- Exhibit 2: Quote
- Exhibit 3: Ordinance

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

For information concerning this acquisition, contact: Lindsey Sanders, 940-349-8248.

Legal point of contact: Marcella Lunn at 940-349-8333.



Pricing Proposal

Quotation #:	26344359
Description:	Neogov Renewal
Reference #:	Previous PO#209488
Created On:	Jul-23-2025
Valid Until:	Sep-30-2025

City of Denton

Lindsey Sanders

TX
 United States
 Phone: 940 349-8248
 Fax:
 Email: Lindsey.Sanders@cityofdenton.com

IAM

Gregory Gonedes

SHI Government Solutions
 3828 Pecana Trail
 Austin, TX 78749
 Send PO's to: Texas@shi.com
 8008706079
 5127320232
 Phone: 800-870-6079
 Fax: 512-732-0232
 Email: gregory_gonedes@shi.com

[Click here](#) to order this quote

All Prices are in US Dollar(USD)

Product	Qty	Retail	Your Price	Total
1 Single Sign On Subscription NEOGOV - Part#: NPN-NEOGO-SINGL-B Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$1.00	\$0.70	\$1,505.00
2 API NEOGOV - Part#: NPN-NEO-API Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	1		\$0.00	\$0.00
3 Insight Subscription NEOGOV - Part#: NPN-NEOGO-INSIG-S Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$15.00	\$12.58	\$27,047.00
4 New Hire Export Subscription (ON) NEOGOV - Part#: NPN-NEOGO-NEWHI-A Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$2.00	\$0.98	\$2,107.00
5 eForms Subscription NEOGOV - Part#: npn-neo-eform-a Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$15.00	\$12.73	\$27,369.50
6 Learn Subscription NEOGOV - Part#: NPN-NEOGO-LEARNS-A Contract Name: TIPS - Technology Solutions, Products and Services	2150	\$29.00	\$25.16	\$54,094.00

Contract #: 230105
 Coverage Term: Oct-01-2025 – Sep-30-2026
Note: Software, ESD

7	Onboard Subscription NEOGOV - Part#: npn-neogo-onboa Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$13.00	\$11.65	\$25,047.50
8	Core HR Subscription NEOGOV - Part#: NPN-NEOGO-COREH-A Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$15.00	\$12.19	\$26,208.50
9	Governmentjobs.com Subscription NEOGOV - Part#: npn-neo-gov-a Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$4.00	\$2.43	\$5,224.50
10	Perform Subscription NEOGOV - Part#: PE Contract Name: TIPS - Technology Solutions, Products and Services Contract #: 230105 Coverage Term: Oct-01-2025 – Sep-30-2026 Note: Software, ESD	2150	\$18.00	\$15.28	\$32,852.00
				Total	\$201,455.00

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SHI GOVERNMENT SOLUTIONS, INC., THROUGH THE INTERLOCAL PURCHASING SYSTEM (TIPS) COOPERATIVE PROGRAM CONTRACT NO. 230105, FOR THE PROCUREMENT OF THE NEOGOV SUITE FOR THE HUMAN RESOURCES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8893 – AWARDED TO SHI GOVERNMENT SOLUTIONS, INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$1,136,407.66).

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:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8893	SHI Government Solutions, Inc.	\$1,136,407.66

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 referenced herein; 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

BY: Marcella Lunn



City of Denton

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

Legislation Text

File #: ID 25-1538, **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 Zencity Technologies US, Inc., for a centralized community engagement and community sentiment software for the Marketing and Communications Department; providing for the expenditure of funds therefore; and providing an effective date (RFP 8852 - awarded to Zencity Technologies US, 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 \$400,000.00).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Zencity Technologies US, Inc., for a centralized community engagement and community sentiment software for the Marketing and Communications Department; providing for the expenditure of funds therefore; and providing an effective date (RFP 8852 – awarded to Zencity Technologies US, 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 \$400,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Staff recently issued a Request for Proposals (RFP) for a combined community engagement and sentiment analysis software. While the City currently utilizes a social media sentiment tool, expanding the scope and depth of data collection requires enhanced functionality – necessitating the issuance of an RFP.

The objective was to identify a software solution specifically designed to help local governments collect, integrate, and analyze resident sentiment in order to strengthen data-driven decision-making. By leveraging this type of platform, the City of Denton aims to significantly enhance its ability to understand, anticipate, and respond to community needs.

Key deliverables outlined in the RFP included:

- Full data integration
- Unlimited topic tracking
- Automated sentiment and media mention reports
- Statistically valid community sentiment surveys
- Expansion of the City’s current engagement platform

A centralized platform that aggregates all possible channels of resident feedback would create a hub for collecting and analyzing community sentiment, allowing staff to see a holistic picture of community perspectives. This integrated approach would not only support the Marketing and Communications Department but would also provide critical insights to Executive Leadership. These insights will help ensure

that strategic decisions remain aligned with the City Council’s priorities and the community’s evolving expectations.

	FY 26-27	FY 27-28	FY 28-29	FY 29-30	FY 30-31	Total
Licenses	\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$400,000

Request for Proposals was sent to 64 prospective suppliers, including 62 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Three (3) proposals were received, references were checked, and proposals were evaluated based upon published criteria, including project scope, past performance, experience, schedule, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Stripe-A-Zone, Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	208, 915, and 961
Notifications sent for Solicitation sent in IonWave:	1,231
Number of Suppliers that viewed Solicitation in IonWave:	66
HUB-Historically Underutilized Business Invitations sent out:	167
SBE-Small Business Enterprise Invitations sent out:	483
Responses from Solicitation:	3

RECOMMENDATION

Award a contract with Zencity Technologies US, Inc., for a centralized community engagement and community sentiment software for the Marketing and Communications 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 \$400,000.

PRINCIPAL PLACE OF BUSINESS

Zencity Technologies US, Inc.
Wilmington, DE

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract, with the contract beginning on October 1, 2025, 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 products and services will be funded from Marketing and Communications Licenses account 106001.7804. A requisition will be entered into the Purchasing software system in the amount of \$79,820 at the beginning of FY 2025. The budgeted amount of this item is \$400,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: Kayla Herrod, 940-349-7463.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2

8852 - Pricing Evaluation for Community Engagement and Community Sentiment

				Respondent's Business Name:		Bracane Company		Phoenix Innovations LLC	
				Principal Place of Business (City and State):		Plano, TX		Flower Mound, TX	
Line #	Description	QTY	UOM	Zenity Technologies US, Inc.		Unit	Extended	Unit	Extended
				Unit	Extended				
1	Combined Community Engagement and Community Sentiment Software								
2	Social Media Management	5	Year	\$ 24,000.00	\$ 120,000.00	\$10,000.00	\$ 50,000.00	\$24,425.60	\$78,352.00
3	Public Sentiment Measurement and Monitoring	5	Year	\$ 25,820.00	\$ 129,100.00	\$12,000.00	\$ 60,000.00	\$13,481.60	\$78,352.00
4	Interactive Community Engagement Platform	5	Year	\$ 30,000.00	\$ 150,000.00	\$48,500.00	\$ 242,500.00	\$13,481.60	\$78,352.00
5	Customer Experience Surveys	5	Year	\$ -	\$ -	\$12,000.00	\$ 60,000.00	\$13,481.60	\$78,352.00
6	Media Mention Aggregation and Reporting	5	Year	\$ -	\$ -	\$10,000.00	\$ 50,000.00	\$13,481.60	\$78,352.00
Total:				\$399,100.00		\$462,500.00		\$391,760.00	

Evaluation				
Item #	Standard Criteria	Zenity Technologies US, Inc.	Bracane Company	Phoenix Innovations LLC
1	Proposed project scope and content - 20%	20.00	17.33	10.67
2	Past performance and experience on projects, including municipal experience, rate design, and model development - 30%	30.00	20.00	12.00
3	The Respondent's experience, qualifications, and key personnel are available for this project - 30%	28.00	22.00	14.00
4	Schedule for this service as defined in the scope of work - 10%	9.33	6.67	4.67
5	Price, Total Cost of Ownership - 10%	9.82	8.47	10.00
Total Score:		97.15	74.47	51.34

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ZENCITY TECHNOLOGIES US, INC., FOR A CENTRALIZED COMMUNITY ENGAGEMENT AND COMMUNITY SENTIMENT SOFTWARE FOR THE MARKETING AND COMMUNICATIONS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFORE; AND PROVIDING AN EFFECTIVE DATE (RFP 8852 – AWARDED TO ZENCITY TECHNOLOGIES US, 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 \$400,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for a centralized community engagement and community sentiment software for the Marketing and Communications 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.

<u>RFP NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8852	Zencity Technologies US, Inc.	\$400,000.00

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 _____ 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.

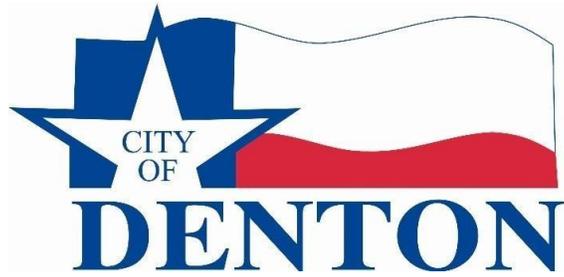
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Leah Bush*
Marcella Lunn



DocuSign City Council Transmittal Coversheet

RFP	8852
File Name	Community Engagement and Community Sentiment Software
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND ZENCITY TECHNOLOGIES US, INC.
(Contract #8852)**

THIS CONTRACT is made and entered into this date _____, by and between **ZENCITY TECHNOLOGIES US, INC.**, a Delaware corporation, whose address 1313 N Market Street, Ste 5100 Wilmington, DE 19801, 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 City’s RFP# 8852 -Community Engagement and Community Sentiment Software, 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’s RFP 8852 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) Insurance Requirements (**Exhibit “E”**);
- (f) Contractor’s Proposal (“Contractor’s Offer”) (**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 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” 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.

CONTRACTOR

DocuSigned by:
BY: Eyal Feder
C9E45DAF58FB49A
AUTHORIZED SIGNATURE

Printed Name: Eyal Feder

Title: CEO

3477469913

PHONE NUMBER

eyal@zencity.io

EMAIL ADDRESS

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

Signed by:
Dustin Sternbeck Dustin Sternbeck
1CD02F73005548A...
SIGNATURE PRINTED NAME

Chief Communications Officer
TITLE

Marketing and Communications
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

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

Exhibit A **Special Terms and Conditions**

1. Total Contract Amount

The contract total for services shall not exceed \$400,000. Pricing shall be per Exhibit F attached.

2. The Quantities

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

3. Contract Terms

The contract term will be one (1) year, effective from October 1, 2025. 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.

Contract 8852

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.

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

Contract 8852

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 Contract 8852

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 Contract 8852

electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have Contract 8852

electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the Contract 8852

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, Contract 8852

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 Contract 8852

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 Contract 8852

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 Contract 8852

the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. DISPUTE RESOLUTION:

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

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith

for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator’s fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

C. The parties shall not be required to submit to binding arbitration.

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

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

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

- | |
|-----------------------------|
| New Year’s Day (observed) |
| Martin Luther King, Jr. Day |
| Memorial Day |
| Juneteenth |
| Independence Day |
| Labor Day |
| Veteran’s Day |
| Thanksgiving Day |
| Friday After Thanksgiving |
| Christmas Eve (observed) |
| Christmas Day (observed) |

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

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose 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.

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

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.

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/](https://www.ethics.state.tx.us/filinginfo/1295/)
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line.
(EX: Contract 1234 – Form 1295)

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

Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents,

Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of

\$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

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.

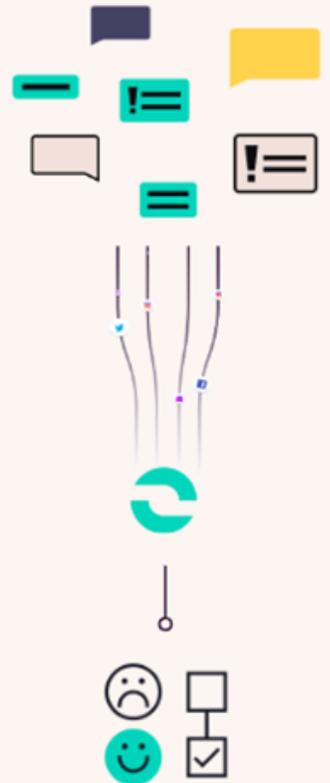
Exhibit F

Proposal for City of Denton, TX

Submitted by: Zencity Technologies US Inc.

Date: 06/25/2025

RFP 8852 - Combined Community Engagement and Community Sentiment Software



ATTN: **City of Denton, TX**

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1. Company History and Background

We are delighted to present our proposal for the Combined Community Engagement and Community Sentiment Software solution tailored specifically for the City of Denton in response to Bid 8852. Zencity is proud partners of the City of Denton since 2024 to support community engagement efforts and strategic communications utilizing Zencity Organic and Zencity Annual Community Survey.

At Zencity, we are committed to empowering local governments with the tools and insights necessary to understand and serve their communities better. We are eager to continue our collaboration with the City of Denton on this important initiative.

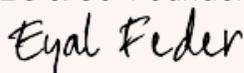
Zencity goes beyond being a mere Community Engagement and Sentiment Platform service provider; we are dedicated partners in the community engagement process. With our unparalleled technical expertise and practical methodologies, we develop and implement data-driven public engagement solutions tailored to meet the unique needs of each community we serve. Our extensive experience in serving hundreds of local governments across the United States and North America reflects our commitment to excellence and our ability to deliver reliable results that governments, management staff, and residents can trust.

Zencity's civic engagement and community insights platform is purpose-built for local governments, helping to foster inclusive participation, build public trust, and support data-driven decision-making. Our platform solutions, purpose-built for government (Zencity Organic, Zencity Engage, Zencity Community Survey, and Zencity Experience Surveys) provides comprehensive and proactive community input, sophisticated analytics, and expert support, empowering government leaders to make confident, transparent and effective decisions that earn residents' trust. This enables more informed decision-making and enhances local government's ability to understand and respond to resident needs.

For any questions or concerns, please don't hesitate to reach out to our dedicated point of contact, Nensi Kosti, at nensi@Zencity.io. We are eager to collaborate with you and contribute to the success of your community initiatives.

Thank you for considering Zencity for this opportunity!

Sincerely,
Eyal Feder-Levy
CEO & Co-Founder, Zencity



Executive Summary

Zencity is pleased to present our proposal for a comprehensive, secure, and innovative **Community Engagement and Community Sentiment Software** that fully meets and exceeds City of Denton's requirements. Our mature, Zencity 360 Software-as-a-Service (SaaS) solution is designed to centralize and streamline public engagement processes across all City divisions enabling inclusive, effective, and transparent participation from Denton's diverse population. Built with scalability, accessibility, and ease of use at its core, our platform is fully equipped to serve the City's growing need for a robust digital engagement hub that facilitates coordinated, data-driven public input.

Building trust with community members is a crucial part of the success of Denton's work. A key step in building this trust is deeply understanding the community's needs, priorities and opinions on the various aspects of city life and government services, so that agencies can take action around those priorities and serve their community, and to communicate about these actions with the public.

The challenge is that understanding these needs can be daunting, traditional engagement methods used to gauge sentiment tend to be limited and skewed, often hearing from a small sample of the community resulting in anecdotal, point in time data. The task of ongoing engagement and communication also requires investing incredible resources from staff while doing so and is an incredible investment of time and effort.

Our goal is to help streamline these needs while reaching more voices and saving time. Zencity's 360 platform can be applied to better understand Denton residents' sentiment, priorities and opinions toward key city services and projects, and help save staff time in managing ongoing communication needs.

We propose to do so in a way that will also consolidate different needs, platform and capabilities, resulting in both a more timely and accurate representation AND in saving resources and staff time.

Building on the team's existing great work, we would be excited to collaborate with the Denton city team in hearing from more community members and streamlining communications by deploying the Zencity platform to be able to better understand the critical factors driving sentiment around safety, water, health, facilities, libraries and more, and save time while doing so.

Our Commitment to City of Denton

We recognize that the City of Denton hosts hundreds of public engagement activities per year and requires a **reliable, centralized, and responsive** platform to manage these interactions. Our mature solution has been implemented successfully in multiple large municipalities, where it has delivered measurable improvements in community participation, project coordination, and civic transparency.

We are not just offering software, we are offering a one-stop shop for the public, staff, or Council and a long-term partnership that supports the City's goals to:

- Increase engagement reach and diversity
- Deliver purposeful and inclusive consultation experiences
- Ensure alignment between public input and Council decisions
- Equip City staff with the tools and insights needed to continuously improve

Why Zencity?

✓ **Proven Experience:** Over 400 municipalities and government agencies have leveraged Zencity's surveys for effective policymaking.

✓ **AI-Driven Insights:** Our proprietary analytics ensure deep, real-time understanding of community sentiment. Visualized reports, dashboards, and benchmarking tools tailored to City's officials' decision-making needs.

✓ **Actionable Results:** >83% client retention rate and 50M+ resident insights analyzed.

✓ Featured in **Harvard Kennedy School's GovTech Report**

✓ Awarded **internationally with Smart City Expo World Congress (SCEWC) 2020 Award**, which is granted to "pioneering and **won 1st Place as Fast Company's Most Innovative Company for 2025.**

Supplier Profile

Zencity is pleased to submit the following response in accordance with the City of Denton's requirements under RFP 8852. We affirm our full commitment to supporting the City of Denton Social Procurement Program by fostering inclusive economic growth and enabling equitable access for diverse suppliers and communities.

Zencity Overview

Zencity, founded in 2015 by Eyal Feder and Ido Ivry, is a pioneering organization that places a strong emphasis on the pivotal role of public agencies in shaping communities. Understanding that local leaders are at the forefront of delivering essential government services and are best equipped to enhance quality of life, Zencity was established with a clear mission to support and empower these agencies. To support and extend the Company's mission, Zencity CA Ltd. was incorporated on June 25, 2018, and is a wholly owned subsidiary of Zencity Technologies Ltd., established on June 1, 2015.

Since its inception, Zencity has been dedicated to serving local governments, recognizing them as the cornerstone of civic life. With a firm belief in the importance of data-driven decision-making and community engagement, Zencity offers innovative solutions tailored specifically for the needs of public agencies.

With a client base spanning over 400 jurisdictions across North America and beyond, Zencity has established itself as a trusted partner for local governments worldwide. The company's commitment to excellence is reflected in its extensive list of customers and testimonials, showcasing the tangible impact of its services on communities.

Zencity's team comprises a diverse blend of former local government professionals and community engagement experts, bringing together a wealth of experience and expertise. With offices in New York City, Tel Aviv, and Vancouver, as well as remote employees throughout the United States, Zencity operates on a global scale while maintaining a strong focus on the individual needs of its clients. Driven by a desire to deliver positive and proven results, Zencity's team of over 150 employees remains dedicated to meeting the evolving service and data requirements of public agencies. Through a combination of innovative technology, strategic insights, and unparalleled support, Zencity continues to empower local governments to better serve their residents and build thriving communities.

Major Clients

- City of Phoenix (AZ) and Police Department
 - City of New York (Office of Engagement)
 - City and Police Department of Los Angeles (CA)
-

Corporate Structure and Affiliates

Zencity Technologies Ltd., the parent company, coordinates product R&D, financing, and global strategy. Its affiliated subsidiaries serve the following functions:

- **Zencity Technologies US Inc.** – U.S. leadership and sales
- **Zencity Technologies Holdings CA Ltd.** – Corporate acquisition vehicle
- **Zencity Technologies CA Ltd.** – Canadian distribution and R&D
- **Commonplace Digital Ltd.** – UK-based civic engagement platform

All affiliates contribute to a global ecosystem that ensures product excellence, localization, and ongoing service capability.

Products and Services Offered

As outlined in this proposal, **Zencity 360** is our proposed solution to meet the City's community engagement requirements. Zencity is a leading provider of Software-as-a-Service (SaaS) solutions purpose-built for local governments and public sector organizations. Our flagship platform, **Zencity 360**, is trusted by hundreds of municipalities globally and is designed to empower public officials with real-time, data-driven insights that reflect the voices and needs of their communities. Through a holistic and inclusive approach to civic engagement, Zencity enables government officials to make more informed, equitable, and transparent decisions ultimately fostering stronger public trust and sustainable community development.

- **Zencity Organic**
Leverage the incredible wealth of public online resident conversations to monitor, recognize and understand real-time feedback and emerging issues. With our listening module, built especially for the government, we can track millions of publicly available conversations, turning them into data. Communications teams use the live data to track resident sentiment in real-time, gauge the reach of their messaging, and spot gaps in misinformation. This also includes Zencity Publishing, for streamlining government communications with tools that support real-time

posting to official social media accounts and generate press releases in seconds—ensuring consistent, timely, and impactful messaging to the community.

- **Zencity Engage**

Create a collaborative space for public conversations with a dynamic and interactive projects-based hub, where city leaders can educate and inform residents on ongoing projects and initiatives, as well as roll out polls or surveys for additional input.

- **Zencity Community Survey (Representative)**

Run a wide survey of city services and public opinion using unique technology Zencity developed, that will have a representative sample of residents across all neighborhoods in the city. The short surveys will be distributed via online and mobile advertising which will run on an ongoing basis, and provide an annual/ semi-annual/ or quarterly “score” to the city’s different services. They can also include custom questions to answer specific or timely issues.

- **Zencity Experience Surveys**

Improve public service delivery through targeted satisfaction surveys that collect ongoing performance feedback. The data enables municipal teams to identify service gaps, improve responsiveness, and enhance resident experiences.

Key Differentiators

Zencity stands out with a user-friendly design, flexible tools, and smart collaboration features tailored for municipalities:

- *Intuitive User Experience*: Easy-to-navigate interfaces for both residents and administrators to maximize engagement and streamline data analysis.
- *Flexible & Customizable Tools*: Adaptable layouts and content options for creating tailored surveys, polls, and interactive campaigns.
- *Hybrid Collaboration*: Combines personalized resident interactions with AI moderation to scale feedback management efficiently.
- *Continuous Innovation*: Regular updates ensure access to the latest community engagement features and best practices.

Together, these tools provide municipalities with a 360-degree view of resident input and engagement, enhancing transparency, inclusivity, and responsiveness in local governance.

Commitment to Diversity

Zencity strongly supports and aligns with the goals of the City of Denton Social Procurement Program. We recognize the City's commitment to inclusive economic growth and ensuring access to supply chain and employment opportunities for equity-deserving communities. We embrace this vision and are committed to delivering not only efficient services but also measurable social value.

1. Supplier Diversity Policy

Zencity is actively developing a formal supplier diversity policy to guide our subcontracting approach. While we currently operate with a relatively lean staffing model, we are committed to expanding opportunities for local and diverse subcontractors as we grow our operations. In future partnerships with City of Denton, we will:

- Ensure fair access to all subcontracting opportunities.
- Partner with diverse suppliers where subcontracting opportunities arise.
- Report and track supplier diversity metrics as part of contract performance.

2. Employment Diversity and Equal Opportunity Policy

Our Equal Employment Opportunity and Reasonable Accommodation Policy reflects our unwavering commitment to diversity, inclusion, and equity in our workforce. Highlights include:

- Non-discriminatory hiring across all federally and provincially protected classes.
- A proactive approach to providing reasonable accommodations.
- A safe and inclusive work environment free from harassment or retaliation.
- Internal processes for employees to report concerns and seek accommodations.
- Disciplinary procedures for policy violations, up to and including termination.

We actively track employee demographics, hiring patterns, and complaint resolutions to measure our performance in fostering an inclusive workplace.

Commitment to Ongoing Development and Compliance

Zencity is deeply committed to the continuous enhancement, support, and compatibility of its solution. We maintain a robust product roadmap with bi-weekly updates, informed by client feedback and emerging municipal needs. Zencity guarantees forward compatibility with new technologies and system integrations and proactively ensures compliance with relevant municipal, provincial, and federal legislation, including:

- **Accessibility:** AODA
- **Privacy & Information:** MFIPPA, FIPPA, PIPEDA, and GDPR

Additionally, Zencity maintains an in-house legal and compliance team to continuously monitor policy changes and update system features and operations accordingly. We also engage in regular third-party audits to uphold our high standards.

Provisions for Downtime or Loss of Revenue

Zencity guarantees a **99.95% uptime** across all systems, supported by our robust infrastructure and real-time monitoring tools. In the rare event of service interruption:

2. Service is typically restored within minutes (the longest recorded downtime is under 15 minutes, with zero data loss or client impact).
3. Redundant systems and daily automated backups ensure data protection.
4. A fully tested **Disaster Recovery and Business Continuity Plan** ensures minimal disruption.
5. Clients are proactively informed through automated alerts and updates, and a 24/7 technical support team is available to respond to any issue promptly.

As a result, the City can have full confidence in the reliability of the platform, even during peak engagement periods or emergencies.

2. Experience, Qualifications and References

Experience with Similar Projects

Zencity brings extensive experience delivering digital engagement, data analysis, and civic engagement tools to local governments across North America and internationally. With over 400 municipalities using our solutions, including large urban centers and cities such as Los Angeles, Chicago, New York City, Phoenix and numerous mid-sized and smaller jurisdictions, Zencity has consistently demonstrated our ability to provide scalable, secure, and inclusive Software-as-a-Service (SaaS) platforms that support real-time decision-making and resident engagement.

Our proven track record includes delivering solutions that meet the complex needs of municipal governments, with projects of similar scope and size to the City of Denton. Amongst many, few to name are:

- **City of Austin, TX:** *Through Zencity Community Survey Austin was able to gather data on resident perception of safety, trust and belonging. This data helped inform their “We All Belong” campaign to help address hate crimes. Zencity data is*

included in their storymap and data shows a decrease in hate crimes form 2023 to 2024.

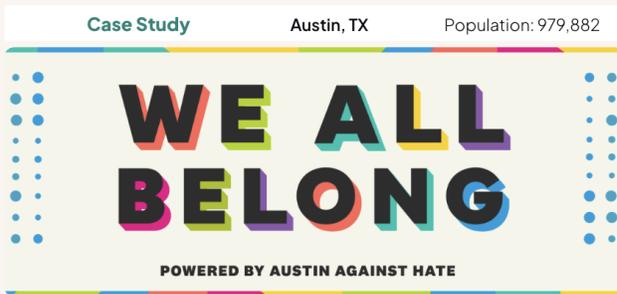
- **City of Tempe, AZ:** Utilizes Zencity Surveys and Organic data to support their ongoing efforts in relation to their What Works Cities certification. The data is integrated into their larger resident-facing dashboard which monitors against key performance indicators.
- **City of Tampa, FL:** Through Zencity Engage Tampa collected community insights through surveys that they held in person through QR codes prompting feedback on their meeting presentation. Our approach equipped City leaders to shape actionable plans and allocate budgets effectively.
- **City of Dayton, OH:** Enhanced crisis communications and helped make crisis management strong with ongoing analysis from Zencity Organic.
- **Town of Normal, IL:** Utilized Zencity Engage to run a required citizen survey to support Normal Police Department’s CALEA accreditation.

📌 Providing a few case decs in the following pages.

We invite you to explore our case studies portfolio showcasing our work with local government agencies, through the following link: [Working with Cities to better serve their residents.](#)

Creating a Safer, More Inclusive Austin

‘We All Belong’ Initiative



Case Study

Austin, TX

Population: 979,882

Key Findings

✓ **Decreased Hate Crimes**
 Reported cases dropped from **51 in 2023 to 18 in 2024**, the lowest in five years.

👤 **Improved Trust and Engagement**
 Residents felt heard, increasing the use of online reporting tools and boosting trust in city leadership.

📄 **National Recognition**
 The StoryMap will be featured in the **2025 Esri Map Book**.

Challenge:

In 2022, Austin faced a **59% rise in hate crimes**, coupled with **low reporting** due to residents feeling their concerns **wouldn’t be taken seriously**. This revealed a deeper gap in trust and communication between the city and its residents.

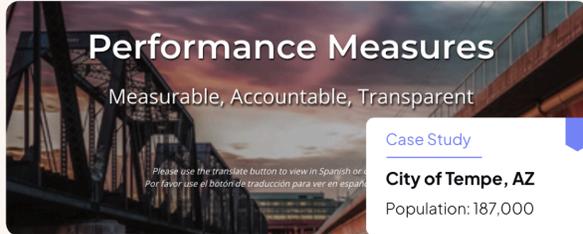
Solution:

Through **Community Surveys and Pulse sentiment analysis**, Austin captured resident perceptions of **safety, trust, and belonging**. These insights informed the **We All Belong campaign**, featuring an interactive StoryMap and digital dashboard that combined police data with community sentiment to deliver actionable results.



Measuring City Performance

Through Data Driven Strategic Priorities



Problem:

In order to achieve its **What Works City** certification, Tempe needed to gather data and demonstrate how it uses it "to inform policy decisions, allocate funding, improve services, evaluate the effectiveness of programs and engage residents."

Solution:

Tempe's Strategic Management and Innovation Office created 5 Performance Measures and the **OpenTempe** dashboard. **Zencity's Blockwise** public safety survey provides monthly data to directly inform multiple measures. They are currently working on integrating additional sources, including a monthly Parks **Pulse** survey and **Organic** data



Strategic Planning

Key Results

✓ **Achieved Platinum Certification Level!**



Transparent government

Providing accurate and easy to access data about the City to all residents.



Data-driven insights

Empowering every city department to incorporate data to inform decision making.



Vertical alignment and integration

Ensure all departments incorporate and act on strategies to improve performance.

Proactive Crisis Management

with Zencity

Case Study

Dayton, OH
Population: 135,512



Challenge:

Between February and August 2019, Dayton, OH, faced multiple crises, prompting **public concerns about communication, safety, and preparedness**, requiring **real-time insights for effective response**.

Solution:

Zencity's AI **analyzed feedback** to address concerns like repair updates and siren systems, **tailoring responses with initiatives** like "United Against Hate" and **improved communication**.

Key Findings

✓ **Dayton enhanced crisis communication, validated initiatives with data, and showcased effective leadership during multiple crises.**



Improved communication

Frequent updates reduced negative sentiment during the water outage



Enhanced safety measures

Citizen feedback prompted exploration of better notification platforms post-tornado.



Validated procedures

Positive feedback on first responders' swift action during the mass shooting reinforced confidence in city protocols.

Securing CALEA Accreditation

Through Citizen Feedback

Case Study

Town of Normal, IL
Population: 54,923



Challenge:

As part of the CALEA accreditation process, the Normal Police Department (NPD) is required to conduct a biennial **citizen survey** to assess community **perceptions and satisfaction**. NPD needed a comprehensive, **data-driven understanding of community sentiment** to ensure alignment with best practices and address public concerns.

Solution:

Using Zencity's Engage platform, a citizen survey gathered insights on **safety, police performance, and community concerns**. This data played a key role in Normal's CALEA accreditation, enhancing **transparency, trust, and accountability** in the police department's relationship with the community.

Key Results

✓ **Insightful feedback** – Key issues like traffic violations, noise disturbances, and gun violence were identified.



High community engagement:

The survey saw strong participation, reflecting significant resident interest in police performance and community safety.



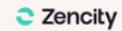
Public confidence

75% of respondents expressed satisfaction with police attitudes and community engagement.



Actionable data

Recommendations from the survey, such as increased police presence and enhanced community outreach, informed the agency's approach to continuous improvement.



Required Skills, Experience, and Solution Appropriateness

Zencity's team includes experienced data scientists, civic technologists, municipal engagement strategists, and software engineers with deep expertise in the design, development, and implementation of government technology solutions. Our core competencies include:

- **Human-centered design** to ensure accessibility and equity in digital public engagement.
- **Advanced data analytics and natural language processing (NLP)** for meaningful insights from organic and structured feedback.
- **Proven change management and onboarding methodologies** to support municipal staff with adoption, training, and long-term value realization.

Our solution is purpose-built for municipalities. Each module aligns with specific public sector use cases such as capital project feedback, policy benchmarking, communications strategy, and service evaluation. Our experience ensures seamless integration with internal City workflows, digital communications protocols, and legal standards such as AODA compliance.

By combining industry-leading tools with hands-on support and localized onboarding, we ensure the City of Denton receives a solution that is not only technically sound but also practically effective in addressing the diverse needs of Denton's residents and departments.

References

We are pleased to provide three references that demonstrate our extensive experience and proven track record of success delivering digital engagement solutions to public sector clients. Each reference highlights the use of our product and platform to support municipalities and regional governments with initiatives of comparable size, scope, and complexity to the solution proposed in this RFP. These include long-standing partnerships with the local government entities in Texas such as Sugar Land, Lewisville, McAllen, which use our platform around Indigenous relations and urban development projects. These projects reflect our commitment to delivering effective, scalable, and user-friendly engagement tools tailored to the needs of government clients.

Reference 1: Sugar Land, TX

Client Contact: Sabrina Abdulla

Title: Director of Customer Experience

Contact: [✉sabdulla@sugarlandtx.gov](mailto:sabdulla@sugarlandtx.gov) / (281) 275-2900

Address: 2700 Town Center Boulevard North, Sugar Land, TX 77479

Client Overview

 City government serving **118,000 residents**

 Working Relationship: **4 years**

Project Description

- Supporting City Administration and key departments via Community Survey, Organic, Engage, Experience Survey and Pulse Survey,
 - Run a Semi-Annual Community Survey which informs budget & annual planning
 -  Ongoing initiatives Engage Hub: <https://sugar-land-tx.civilspace.io/en>
-

Reference 2: Lewisville, TX

Client Contact: Ashley Carlisle

Title: Budget Manager

Contact: [✉ acarlisle@cityoflewisville.com](mailto:acarlisle@cityoflewisville.com) / (972) 219-3411

 **Address:** 151 W. Church Street, Lewisville, TX 75057

Client Overview

 City governmentserving ~**106,000 residents**

 Working Relationship: **6 years**

Project Description

- Supporting Budget and City Administration via Community Survey, Organic and Engage
- Running Semi-Annual Community Survey to inform budget & annual planning
- Recent engagements:
 - Survey to gather feedback about neighborhood programs
 - Survey to gather feedback about Short Term Rental Policies

Reference 3: McAllen, TX

Client Contact: Cesar Rodriguez

Title: Director of Strategic Planning

Contact: [✉ cesar_rodriguez@mcallen.net](mailto:cesar_rodriguez@mcallen.net) / (956) 681-1018

 **Address:** 220 W Ellsworth Street, Midland, MI 48640

Client Overview

 U.S. City with ~**84,000 residents**

 Working Relationship: **5 years**

Project Description

- Supporting City Executive Leadership and Strategic Planning via Community Survey, Organic, Engage and Pulse Survey
- Used Engage for **various Parks & Recreation projects including naming of a new park and public art survey**
 - Utilize Organic to monitor monthly trends in their 311 data , understand sentiment around key events like State of the City and the summer music & arts festival

 We invite you to explore our portfolio showcasing our work with 400+ cities, counties, state agencies, and law enforcement organizations, through the following link:
[Zencity - Serving Hundreds of Local Governments.](#)

Acknowledgement of Reference Checks

We acknowledge and fully agree that by providing client references as part of this proposal, City of Denton has the right to contact the individuals listed during the evaluation process. We understand and accept that the City will make its own arrangements to conduct these reference checks and that substitution of references will not be permitted after the close of the RFP.

References and Past Performance

We understand that the City may evaluate our proposal by considering the feedback from our provided references and, where applicable, assess Zencity's performance on past contracts with the City, as well as those with other affiliated City agencies, boards, or commissions. We welcome this process and are confident that our exceptional performance history, client satisfaction, and continued contract renewals will reflect positively during the evaluation.

Proposed Staff Team and Resources

Zencity Team

Our core team will be fully engaged and hands-on throughout every phase of this project, working in close collaboration with our broader support staff behind the scenes to ensure a smooth and successful implementation for the City of Denton. With a shared commitment to excellence and a proven track record in delivering impactful results, we're confident in our ability to make this partnership a great success. We believe that we are well-equipped to deliver tailored solutions that drive efficiency, transparency, and innovation. Our approach, methodology and execution are led by a team of experts, who have collectively led thousands of research activities within the public sector.



Meet Your Key Staff: A Dedicated Team Committed to Your Success

Our team is highly experienced in working with hundreds of public agencies, bringing together decades of expertise in providing exceptional services and cutting-edge software solutions. Zencity has an extensive track record of successful projects and a deep understanding of the unique needs and challenges faced by public agencies across the nation. This background makes us ideal to meet your needs.

Eyal Feder-Levy – CEO & Co-Founder

Eyal Feder is an urban planner and community engagement expert and has worked with hundreds of cities over the past 10 years to implement advanced technology and methodologies into their management and communication processes. Today, as the CEO of Zencity, he helps over 400 local governments impact the lives of millions of residents by supporting hundreds of government decision-makers daily. Before founding Zencity, Eyal had been part of the founding team of “City Center”, Tel-Aviv University’s Interdisciplinary Center for Cities and Urbanism, where he led the first projects to implement machine learning into City management in Israel. Apart from Zencity and academic work, Eyal is part of the World Economic Forum’s Future of Urbanism advisory board and was previously the youngest board member of the Israeli Urban Planners’ Association. As CEO & Co-Founder, Eyal has overseen the RFP response and will continue to support the project in an advisory capacity. *Eyal will serve as a lead liaison to ensure the seamless progression of the project, providing strategic oversight while mentoring the team to deliver lasting impact and success for the City of Denton.*

Tim Booker – Director of Product & Head of Engage

Tim is Zencity's Head of Engage and held the role of CEO at Civil Space from its genesis until the company was acquired by Zencity in late 2021. Tim's passion is to leverage digital technology to create transformative experiences for public agencies and their residents that result in positive change. Tim has held technical, strategic and product direction roles in higher education, local government, the Olympic Games, and digital agency spaces over 15 years, using design thinking and technical architecture among his other skill sets to rigorously research and create integrated systems that help complex communities thrive digitally and culturally. At Zencity, he brings that deep community-centric expertise to the work of civic engagement, working closely with municipalities and other government organizations to understand best practices in creating inclusive digital spaces to co-create with their communities. *As your hands-on support, Tim will oversee delivery, ensure milestones are met, and guide the project to success through thoughtful collaboration and execution.*

Dr. Rachel Levenstein – Survey Methodology Lead

Rachel Levenstein is the Head of Survey Research at Zencity and is based in Maryland. She has over 15 years of experience serving as a survey methodologist in the academic, nonprofit, and for-profit sectors. She holds a B.S. in Psychology from the University of Massachusetts and a Ph.D. in Survey and Data Sciences from the University of Michigan. Previously, Rachel was a Senior Survey Methodologist at Westat, where she led the design and administration of surveys on adult literacy as well as a cross-national student assessment. Prior to that role, she worked at the American Institutes for Research. There, she managed large-scale education surveys across the United States. In addition, she worked with state departments of education and labor on ways to use data to improve policy on education and the labor force. *As the Lead Survey Methodologist, Rachel will design and lead all survey methods employed, including oversight of questionnaire creation, survey distribution, and analysis.*

Allison Paisner – Account Manager

Allison is an Account Manager at Zencity, where she works closely with the company's most valued and strategic municipal partners. She is the lead account manager for the City of Denton and leads the day-to-day work effort and serves as the primary point of contact to the City. Allison is an Account Manager at Zencity, working with 100+ of the company's most valued and strategic partners for 6 years. Prior to joining Zencity Allison worked as a Program Analyst for several departments in the District of Columbia, including the city's departments of Transportation, Public Works, and Energy & Environment where she focused on strategic projects relating to sustainability planning, waste diversion, and public transit operations. *With her strong background in municipal government and public policy, Allison brings a unique perspective to her partnership with the City of Denton. Her*

experience, strategic insight, and commitment to responsive local governance make her a valuable asset in helping the City maximize the impact of Zencity's tools and achieve its community engagement goals.

Traci Levin – Head of Customer Success

Traci Levin is the Head of Customer Success at Zencity, where she leads a global team supporting local governments across the United States, United Kingdom, and Australia. With a strong foundation in public sector collaboration and stakeholder engagement, Traci brings over five years of experience working directly with government agencies to implement data-driven strategies that enhance community trust and service delivery. At Zencity, she oversees the development and execution of success programs designed to ensure municipalities receive maximum value from the platform. Her leadership is focused on building long-term partnerships, aligning tools with local priorities, and helping government teams confidently integrate community input into their decision-making processes.

Traci holds a deep understanding of the challenges and opportunities faced by local governments and is dedicated to empowering them through accessible, actionable insights. *In support of the City of Denton, Traci and her team will lead onboarding, conduct regular success check-ins, and provide hands-on training to city staff. Her leadership and commitment to public sector excellence will ensure Denton is well-supported in achieving its engagement and strategic goals through the Zencity platform.*

Guy Galili – Customer Success Manager

Guy Galili brings over 11 years of experience in working with 100+ municipal government and public service entities to his role as Customer Success Manager at Zencity. With a deep understanding of local government operations and community engagement, Guy has successfully supported municipalities across the United States, United Kingdom, and Australia in leveraging data-driven tools to improve decision-making and public trust. Since joining Zencity, Guy has worked closely with cities to implement tailored onboarding, provide hands-on training, and ensure long-term value through regular strategy check-ins and performance reviews. As the dedicated point of contact for the City of Denton, Guy will lead all aspects of the implementation and success process, offering proactive support, facilitating cross-department collaboration, and helping the City extract meaningful insights from the platform. *Guy's extensive municipal background and commitment to public sector innovation make him a valuable asset to the City of Denton as it works to enhance transparency, responsiveness, and resident engagement.*

3. Work plan and Deliverables

Together, we can transform how the City connects with its residents fostering greater participation, equity, and trust in the civic process. We are confident that our platform is uniquely positioned to deliver on the City's vision for a modern, inclusive, and impactful digital public engagement ecosystem.

Benefits of Zencity Proposed Solution

Our proposed solution is a **one-stop shop public engagement hub**, giving residents, city Council, and City staff the ability to find, track, and engage with consultation activities through a centralized and interactive digital platform. This fosters transparency and enhances trust in civic decision-making while also supporting internal coordination and continuous improvement across City divisions.

1. Centralized, Accessible, and Inclusive Engagement

The platform provides the City with a **public-facing engagement site** featuring a modern, user-friendly content management system (CMS). This system supports customizable templates, dynamic content (video, images, interactive tools), and an integrated translation feature to ensure **linguistic inclusivity**. As a fully **AODA-compliant platform** (meeting WCAG 2.0 AA or higher), we are committed to enabling **barrier-free access** to all residents, including those with disabilities, ensuring that every voice in the City can be heard and considered.

2. Wide Range of Engagement Tools

Our platform includes a comprehensive suite of **interactive digital tools** to facilitate a variety of engagement activities:

- **Participatory Budgeting Tool** – empowers residents to allocate budgets and vote on community priorities.
- **Inline Polling & Surveys** – robust, customizable survey tools to collect quick opinions and deep insights.
- **Interactive Mapping** – allows residents to pin comments, ideas, or concerns geographically.
- **Idea Walls & Story Boards** – enables users to submit content (ideas, images, files), and interact with others' submissions.

This diverse toolkit ensures that the City can engage the public using appropriate and innovative methods, adaptable to the context of each project and tailored to different audiences.

3. Robust Back-End Functionality for Staff & City Divisions

Our platform provides **roles-based access** and integrates seamlessly with *Active Directory*, enabling secure identity management and allowing internal staff to manage projects, review submissions, and publish content based on their role. Divisions can manage their own engagement data independently while maintaining access to shared insights across the organization.

This **centralized data management system** supports:

- Coordinated project oversight across divisions
- Standardized promotion of engagement opportunities
- Consolidated tracking and evaluation of public input
- Elimination of data duplication or loss
- Historical access to previous consultations
- Integrated links between engagement feedback and Council decisions

This ensures that all public engagement data is securely stored, easy to retrieve, and available across departments for analysis, planning, and reporting.

4. Comprehensive Reporting & Real-Time Analytics

The solution includes a **dashboard-driven analytics module** that allows both pre-built and customizable reports. Staff can access real-time data visualizations, export results in multiple formats, and filter responses by demographics, location, and topic—enhancing the City’s ability to make evidence-based decisions.

Example: *For a recent municipal project in another jurisdiction, our dashboard allowed staff to view survey response heatmaps by neighborhood, which informed location-specific outreach strategies and improved community alignment.*

5. Scalability and System Performance

Our SaaS solution is built on a **secure, cloud-based infrastructure** with unlimited capacity to host:

- An **unlimited number of projects** simultaneously
- An **unlimited number of general public users**
- A large volume of staff administrators across multiple departments

The platform's flexible architecture ensures continuous uptime, responsiveness during peak usage, and fast content delivery City-wide. It is backed by ISO 27001-compliant cybersecurity standards to protect user data and City infrastructure.

Key Features of Zencity 360 Platform

The Zencity platform's core capability is analyzing content, context and sentiment of resident input and interactions in real time and over time, in order to deliver insights to different stakeholders in the city's management. This enables city management to increase trust with their residents, improve services by analyzing areas where satisfaction can be improved, and identify opportunities for improving communication and have a more informed conversation with the city's clients: citizens, business owners, visitors and community leaders.

Our approach to input analysis is different from that of other companies in this space, since we are focusing solely on local government. We understand that cities have a unique need in analysing social media and other resident inputs, and have built our capabilities to fit this unique use case. We do that by aggregating the data in a dashboard that visualizes millions of conversations by city department and by geographical area, and by sharing a mobile-first alerting system providing relevant alerts to each stakeholder in real time and over time. All of this is possible based on robust AI developed especially for tracking resident input for cities.

Those are the reasons our platform has been selected by hundreds of cities to track social media, collect representative community input, engage with residents, and power their decision making based on it. The following will describe how our platform works and what are the features included in it.

The Zencity core citizen AI platform, is a SaaS-based tool which collects and digests data from various citizen data sources, including social media platforms (Twitter, Facebook, Designated Hashtags, Instagram and more), city hotlines (311), and additional sources such as online sources and the option for feedback e-mails, and generates ongoing insights from them using Zencity's core AI capabilities. The platform highlights sentiment, topics, trends and anomalies in each data set and in the data as a whole - both over time and in real-time.

Zencity analyzes conversations using multiple tailor made AI analysis algorithms, and displays the data in a dashboard, and produces alerts and reports to stakeholders based on the data.

Approach to Achieving Project Goals and Objectives

Zencity's 360 civic engagement and community insights platform has been specifically recommended for the City of Denton staff and leadership because it is purpose-built for municipal governments to drive inclusive, equitable, and data-informed public engagement. With adoption across over 400 local governments globally Zencity offers a proven, scalable solution that directly aligns with the City's objectives to enhance trust, increase civic participation, and ensure decision-making reflects the needs of all residents.

Recommended Solution Overview: Zencity is recommending a multidual-platform solution featuring four capabilities:

1. Zencity Organic
2. Zencity Community Survey (Public Sentiment Measurement and Monitoring),
3. Zencity Engage,
4. Zencity Customer Experience Survey.

I. Zencity Organic

With the power of AI and automation, easily recognize emerging trends and get a bird's eye view on public sentiment around services and initiatives by analyzing the publicly available, anonymized discourse happening online. By mapping, tracking and measuring resident sentiment and news mentions over time you are able to understand how residents feel towards the City's initiatives as well as help staff save time on ongoing communication tasks. This powerful tool allows you to identify opportunities to communicate proactively, and allocate the right resources early.

Our platform enables users to monitor discourse and sentiment about services at large as well as about specific topics over any given period of time – focusing attention and saving time. The team will have access to an unlimited number of “projects”. Projects can cover a variety of topic areas including:

- Crisis Response issues (e.g. protests, public safety issues, floods / hurricanes)
- Strategic Initiatives (e.g. homelessness, budget, development projects)
- Communications strategy and operation (i.e. to analyze resident feedback to various communication methods / channels).

Key Features:

- **Real-time Monitoring:** Zencity Organic offers continuous tracking of conversations across major social and news media platforms, ensuring that local governments are always informed about community sentiments and emerging issues. This feature allows for the aggregation of data from multiple sources in real-time, providing a dynamic and up-to-date picture of public opinion. By keeping a constant pulse on what residents are discussing online, local officials can quickly identify and respond to concerns, enhancing their ability to stay connected with the community's evolving needs.
- **Sentiment Analysis:** Utilizing advanced AI-driven tools, Zencity Organic analyzes the emotional tone of public discourse. This sentiment analysis goes beyond merely cataloging positive or negative comments; it delves into the subtleties of community mood, identifying underlying feelings such as frustration, optimism, or concern. These insights enable local governments to understand not just what issues are being discussed, but how the community feels about them, providing a richer context for decision-making and strategic planning.
- **Trend Identification:** Zencity Organic excels in identifying and highlighting emerging trends and issues within the community. By analyzing data patterns and tracking the frequency of topics, the platform can pinpoint new and significant trends early on. This allows local governments to take proactive measures, addressing potential problems before they escalate and seizing opportunities to engage with the community on pertinent issues, thereby staying ahead of the curve in public discourse.
- **Customizable and Unlimited Project Dashboards:** The platform features user-friendly and customizable dashboards that allow officials to aggregate all relevant anonymized discourse taking place on publicly available channels, including the ability to alert staff when anomalies are detected in your discourse on key issues. The Project provides visualization of data in a way that is most relevant to the individual's specific needs. These dashboards can be tailored to display key metrics, trends, and insights, providing a clear and concise overview of public sentiment and engagement. This customization enhances data-driven decision-making by making complex data more accessible and easier to interpret for various stakeholders within the government.
- **Automated Anomaly Highlights:** Zencity Organic features a smart, AI-driven lens into emerging community trends with automatically updated highlights that immediately surface significant shifts in conversation from social media, news media, 311 tickets and more- saving the hassle of pouring through thousands of data points to identify something noteworthy. When a sharp increase in mentions of recycling, or a sudden spike of negative sentiment regarding leadership occurs,

you'll see an alert at the top of your dashboard and/or email notifications for alerts right to your inbox.

- **Geo-Spatial Analysis:** The platform includes geo-spatial analysis capabilities, which provide insights into where conversations are happening within the jurisdiction. This feature allows local governments to understand geographic trends in public discourse, helping them to allocate resources more effectively and engage with specific areas or neighborhoods that may require more attention. By mapping out the locations of key discussions, officials can target their responses and initiatives more precisely.
- **Engagement Metrics:** Zencity Organic tracks the effectiveness of communications and engagement strategies by monitoring various metrics such as reach, engagement rate, and public response. These metrics provide valuable feedback on how well the government's messages are being received and whether they are resonating with the community. By analyzing these engagement metrics, local governments can refine their communication strategies to improve outreach and connection with residents.
- **Integration with Existing Systems:** Zencity Organic seamlessly integrates with other tools and systems used by local governments, ensuring a streamlined workflow. This integration capability means that data from Zencity Organic can be easily combined with information from other platforms, enhancing overall data analysis and operational efficiency. By working within the existing technological ecosystem of local governments, Zencity Organic facilitates a smoother adoption and maximizes the utility of the platform.
- **Full Integration of Data Sources:** Understand the relevant conversations residents are having across publicly available sources, including social and digital media channels. Included in the Denton's package best-in-class coverage of social media, online news, CRM (Veerant) and publicly available outlets:
 - Unlimited coverage of official sources and unofficial sources
 - Smart anomaly alerts
 - Scheduled custom email digests
 - Custom dashboards and reports
 - Automated reporting
 - Tailored analyst insights
 - Publishing and social media management
 - Multiple accounts & channels
 - Social media analytics
 - AI-generated content
- **Publishing:** Our platform allows to post to all official government social media channels and generate pitch-perfect press releases in seconds, so you can get your message out to the community in less time. Zencity's ChatPT enabled toolbox

allows to manage outbound engagement on all social media platforms, including Nextdoor, and saves time with content creation by infusing AI into the process.

- Manage multiple accounts & channels - post on all accounts, including nextdoor, and use key features like scheduling, approval flows and more to save valuable time.
 - In depth Social media analytics - to track and report on the success and impact of your work.
 - AI-generated content - use our built in ChatGPT engines to create content for press releases or social posts, trained on the best examples out there.
- **Automated Reporting:** Zencity Organic generates comprehensive and automated reports that summarize key findings from the collected data. These reports provide actionable insights and support informed decision-making and strategic planning. By automating the reporting process, the platform saves time and resources for local governments, ensuring that they have regular and detailed updates on community sentiment and emerging issues without the need for manual data compilation.
- **DIY Reporting:** Zencity Organic is also a powerful builder for tailor reports allowing you to keep elected officials and other stakeholders in the know with easy-to-generate, customizable reports that draw data from your dashboard. These reports include:
 - **Templates for recurring reports** that are fully customizable, automatically generated at the cadence of choice, and sent to selected city staff and leadership
 - **Automatically-scheduled reports** that all users in the city are eligible to customize, build and schedule
 - **Cross-platform data** that allows you to identify and share trends across the Zencity data sets beyond just Organic social and news media data, but also includes any survey data from Zencity.
- **Custom Digests and Media Mentions:** Zencity offers a range of preset and custom email digest and alert options, to bring the information that's most valuable to you from your dashboard right to your inbox or push notifications. This includes city summaries, top projects summaries, media mentions in the news roundups and custom topic digests all at a cadence of your choice.
- **Insights:** Zencity Insights are one of the cornerstones of Zencity's platform. Written by our team of analysts, they are short briefs that summarize key findings in your community's data, so you can save time getting to the bottom of what the numbers are showing. Part of being a Zencity client means receiving insights that are personalized to your community on a regular basis; you can also request insights on an as-needed basis, usually for a timely issue.

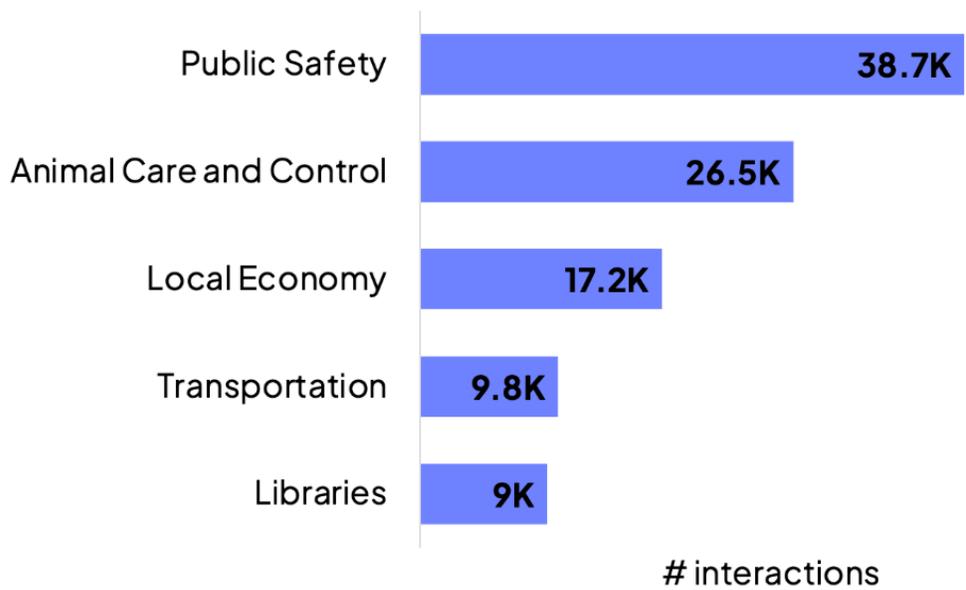
Data Privacy and Security: Ensuring compliance with data privacy regulations, Zencity Organic employs robust security measures to protect sensitive information. The platform is designed with strong data encryption, secure data storage, and regular security audits to safeguard the information collected and analyzed. This commitment to data privacy and security helps build trust with the community, assuring residents that their personal information is handled with the highest standards of care.

From January to March 2025, official city channels generated [141K interactions](#), representing 20% of

Q1 Official Channels Discourse: Positive sentiment was 10X higher than negative; Residents engaged actively with City communications, particularly on issues such as Public Safety, Animal Care and Control, and the Local Economy.

Apr 14 - Apr 14, 2025

Official Channels Discourse: Popular Topics

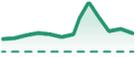


Libraries (9K interactions): Promotional content from the City’s public library was the primary driver of engagement in this category. One particularly well-received initiative invited the public to help name the library’s shelving carts, sparking enthusiastic participation and a range of creative suggestions.

In summary, **the official discourse in the City during the first quarter of 2025 was marked by substantial positivity**, with only minimal negativity—primarily appearing in comments on missing persons posts. The City’s official communications effectively engaged residents, particularly on topics like animal care and road safety. **Community members responded with active participation across a broad range of local issues, often demonstrating kindness and a spirit of collaboration.**

Project alert New

Positive interactions increased in **Municipal Finance & Services**. +478%



[See the Data](#)

Channel to watch

Looks like there is an increase in **negative** interactions across your **official channels**. +75%



[Investigate](#)

Publishing

Planner Profiles

Today < > **January 2023**

MON 21	TUE 22	WED 23	THU 24	FRI 25	SAT 26
<p>9:30 AM: Catch a game at USA Baseball or see a live...</p> <p>11:00 AM: Did you know 2023 is NC Year of the Trail? To...</p> <p>2:10 AM: Join us on Jan 11 from 6 - 8 p.m. at Mills Park Elementar...</p>		<p>9:30 AM: Light up the Beach! Christmas decorations are...</p> <p>Private: Remember Karen to create the post we...</p>		<p>10:00 AM: Light up the Beach! Christmas decorations...</p> <p>12:30 PM: @CaryTheater announced the launch of BEYOND: The...</p>	<p>10:00 AM: Light up the Beach! Christmas decorations...</p> <p>10:30 AM: Refocus your energy after the holiday rush. Try a free...</p> <p>2:30 PM: Tennis matches, photo galleries, live shows - there...</p> <p>4:30 PM: Canadian folk artist falls for a fishmonger in the acclai...</p>

Auto-Post Writer

We make creating and publishing posts a breeze. Simply give us input and we'll craft a polished post for you.

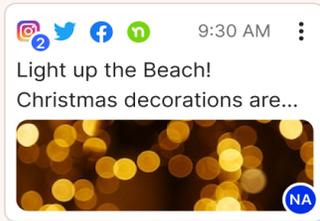
Input:

Write an Instagram post about a new park opening on Carlebach Street |

[Cancel](#) [Apply](#)

Request a Project

NAME	SENTIMENT	
 Winter Carnival	13% ↑ 36% 16% ↓ 28%	Manage
 Sense of Public Safety	13% ↑ 36% 16% ↓ 28%	Set Up
 Bicycle Lanes	13% ↑ 36% 16% ↓ 28%	Set Up



II. Zencity Community Survey

(Public Sentiment Measurement & Monitoring at a Representative Level)

Zencity Community Survey is a powerful tool designed to empower local governments with the ability to measure, monitor and identify valuable insights into the needs, priorities, and sentiments of their communities. In response to the increasing demand for data-driven decision-making and community engagement, Zencity offers a comprehensive solution that goes beyond traditional survey methods to deliver actionable insights that drive positive change.

Hear from more residents and solicit input from a broad cross-section of the community with digital benchmarking surveys designed by data scientists to be accessible, demographically representative of your community, and statistically sound. These benchmarking tools help municipalities continuously measure resident priorities and satisfaction.

Compared to traditional survey methods conducted offline via mail and phone interviews to a random sample of residents, Zencity's surveys are designed, deployed, and analyzed for you, and are:

- Digitally distributed via targeted ads to reach a representative sample (based on Census data), meeting Denton residents 'where they are';
- Encompass multiple target languages;
- Include concise, user-friendly questionnaires to lower barriers to completion;
- Are displayed via a dashboard that can be filtered by demographic categories such as age, gender, geography within the city, and a live view of responses to open-ended questions

Zencity currently surveys the Denton community on an annual basis, generating a summary and comprehensive report that is representative and demographically representative based on the latest Census data. This takes into account: race, age, sex, education, income level, language.

Importantly, these surveys can be geographically segmented into areas of Denton as chosen by the City (e.g. neighborhood, block, district, etc.), and the questionnaire can be amended as priorities evolve.

For maximum transparency and trust-building, this data can easily be published on the City's website via API or embedment.

Zencity Surveys aim to address the main challenges that cause traditional government surveying to be inefficient and ineffective including:

- Full service distribution
- Always on 24/7 dashboard
- Compiled and representative on a monthly, quarterly or 'one time'
- Unlimited translations of questions
- Customized questionnaire
- Analysis of open ended responses
- Designed reports that are digestible by stakeholders

Community Survey Methodology:

In the subsequent sections, we present Zencity's comprehensive methodology designed to deliver high-quality outcomes for your project. Our approach encompasses detailed tasks spanning survey development, meticulous data collection, robust analysis, and insightful reporting.

- **Survey Development and Administration:** Collaborating closely with Denton, Zencity will orchestrate the development and administration of a sophisticated online survey aimed at capturing community sentiment on the key issues pertinent to your residents. The Community Survey will be meticulously crafted to align with Denton's priorities and conducted according to a schedule tailored to Denton's preferences.
- **Live Survey Dashboard:** Throughout the survey period, Denton will have access to an always viewable, dynamic live dashboard, providing real-time insights into survey responses. This dashboard offers a comprehensive view of survey results, allowing Denton to drill down into specific demographics and geographic regions, facilitating nuanced analysis and decision-making.
- **Representativeness:** To ensure inclusivity and representativeness, Zencity employs proven data collection methodologies that transcend traditional barriers. We leverage targeted advertisement strategies to engage with traditionally hard-to-reach demographics, including younger residents, individuals from diverse cultural backgrounds, and non-English speaking populations.

- **Strategic Partnership and Support:** By partnering with Zencity, Denton gains a strategic ally dedicated to deciphering public perception and driving data-informed decision-making. Our team will equip Denton staff with the necessary tools to effectively analyze survey data, enabling them to measure the efficacy of existing strategies and delve into the underlying factors influencing community sentiment.
- **Dedicated Customer Support with Customer Success Manager:** Throughout the project lifecycle, Denton will benefit from dedicated support from a designated local government success manager, ensuring seamless communication and assistance. Our survey and engagement experts will be readily available to address any queries or concerns, providing comprehensive support every step of the way.

Survey Scope and Design:

Zencity will collaborate closely with Denton to develop a comprehensive survey encompassing a wide range of crucial topics vital to understanding community sentiment. These topics include resident satisfaction, economic development, public safety, amenities, quality of life, and communication channels. The survey will be meticulously crafted to engage Denton's residents aged 18 and above, leveraging targeted advertisement methodologies to ensure broad participation.

Our survey development process will be iterative, involving close collaboration between Zencity and Denton to ensure that the questionnaires are tailored to the specific needs and characteristics of Denton's community. Zencity's survey experts will draft, revise, and obtain feedback from Denton's project team to ensure that the survey questions are appropriate and applicable to Denton's services, stakeholders, and business community. We anticipate 2–3 iterations of survey review before gaining approval from Denton for publication.

Zencity is committed to measuring changes in sentiment over time in core metrics. As such, we will retain some survey question content across cycles while also incorporating additional content and new information as Denton's project team's understanding of local sentiment evolves.

Drawing on our extensive experience conducting Community Surveys in numerous communities across the United States, Zencity offers a flexible data collection mechanism that can report data on a semi-annual or even quarterly basis. The survey content includes a "base" section covering overall quality of life, satisfaction with services provided, and community characteristics and sentiments.

Additionally, Zencity provides space for up to five custom questions that can be modified once per cycle (bi-annually or annually). This flexibility allows us to gauge and measure

community satisfaction on main ballot initiatives and other specific topics relevant to Denton.

Zencity will oversee the launch of data collection and monitor responses closely. We recommend a regular cadence for the Community Survey to allow Denton to gain insights into how community sentiments are evolving over time.

Data Collection Methods:

Surveying a population poses challenges as participation rates may decline with increased survey frequency (Groves et al., 2009). To address this, we advocate for a balanced approach, prioritizing a sufficiently large sample size while addressing participation concerns. We target approximately 600 respondents annually to achieve statistical reliability. Given the nature of our non probability survey, data collection continues until we secure a representative sample of this size, ensuring robust insights.

Traditional probability-based surveys, while established, exhibit limitations such as coverage and nonresponse errors (Baker et al., 2013; Elliott & Valiant, 2017). These errors may exclude mobile residents or individuals without fixed addresses, skewing survey outcomes. Consequently, we employ advanced techniques to collect statistically sound data from Denton's residents using non-probability-based methods.

Digital outreach forms the cornerstone of our data collection strategy, capitalizing on the widespread use of digital devices and internet access. Through targeted ads on social media, mobile apps, and online panels, we engage residents across diverse demographics, amplifying community voices often overlooked in traditional surveys.

Our advertisements maintain neutrality, refraining from biasing respondents towards specific survey topics. Instead, we present a general message such as "We have an important new study for Denton residents," allowing respondents to engage with survey content impartially.

This digital distribution method leverages the internet's ubiquity, serving as a modern "public square" for gathering diverse perspectives (Pew Research Center, 2021). With 93% of US adults using the internet, this approach ensures broad representation across various demographic groups and community types.

To verify residency, we employ multiple validation methods. Before data collection, social media platform metadata, panel providers, and mobile app vendors help identify likely residents of Denton. During surveys, respondents are explicitly asked about their residency status and zip code. Responses failing to meet residency criteria are promptly excluded from analysis, safeguarding data integrity and accuracy.

Engaging Underrepresented Populations

At Zencity, we understand the importance of engaging underrepresented segments of the population to ensure that our local government partners can make informed decisions that truly reflect the needs and aspirations of the community. Leveraging our expertise in community engagement, we develop tailored strategies to connect with historically marginalized groups within Denton's population, including the non-English-speaking community, local stakeholders, residents aged 18 to 34, and those residing in multi-family dwellings.

- **Engagement with Non-English Speaking Populations:** To engage effectively with Denton's non-English-speaking residents, we employ customized strategies to promote inclusivity and facilitate clear communication:
 - **Language Accessibility:** Our surveys offer language options such as English, Spanish, and other languages at no extra charge to ensure accessibility for all residents. Survey questions are presented in the default language supported by the respondent's device assuming the survey is translated in that language, and advertisements inviting participation may be displayed in multiple languages.
 - **Targeted Distribution:** We target based on zipcodes within Denton's community.
- **Translations:** Zencity provides unlimited translations for languages spoken by at least 5% of the population, accommodating diverse linguistic needs. We currently support the following languages, but Zencity can add other languages upon request:

English	Spanish	French	Chinese	Telugu
Hindi	Arabic	Haitian Creole	Vietnamese	
Japanese	Korean	Amharic	Nepali	
Punjabi	Portuguese	Russian	Khmer	
Hmong	Tagalog	Pashto	Burmese	
Yoruba	Swahili	Kinyarwanda	Urdu	

- **Engagement with Young Adults (Ages 18–34):** Zencity employs various methods to reach underrepresented young adults for the Community Survey, including targeted campaigns on social media, mobile app ad networks, websites, and survey panels. Through our experience, we've found that mobile app ad networks and survey

panels are particularly effective in reaching younger residents compared to traditional social media platforms. By utilizing these targeted strategies, Zencity ensures that historically underrepresented segments of Denton's population are not only informed about the survey but also feel empowered to participate and provide their valuable feedback.

Data Processing

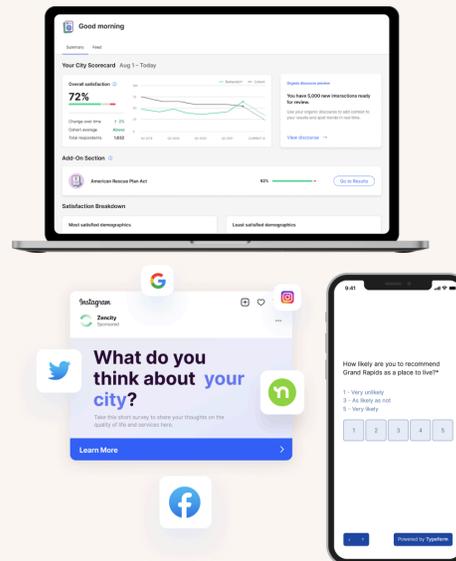
- **Removing Ineligible Respondents.** The first step in this process is the removal of ineligible responses, including respondents who report being under 18, those who fail to provide any demographic information, and those who fail to report a valid zipcode.
- **Rake Weighting.** After the ineligible responses have been removed, Zencity employs an industry-standard statistical technique called rake weighting (also known as "rim weighting" or "iterative proportional fitting"). This technique assigns a unique weight to each respondent based on their demographic characteristics (age, gender, and race). This process ensures that the distribution of these characteristics in the final weighted sample aligns with the community's overall demographics to ensure a stronger representation of the whole community.

Reporting

After each cycle of the survey, Zencity ensures the delivery of comprehensive and insightful reporting to Denton. This reporting is meticulously crafted by our dedicated team of survey researchers and data analysts, who possess expertise in extracting actionable insights from complex datasets.

The report goes beyond merely presenting raw data; it delves into the underlying trends and patterns observed within the collected information. By analyzing the data through the lens of demographics and geography, we provide Denton with a nuanced understanding of how different segments of the population and geographical areas contribute to the overall sentiment and perceptions captured in the survey.

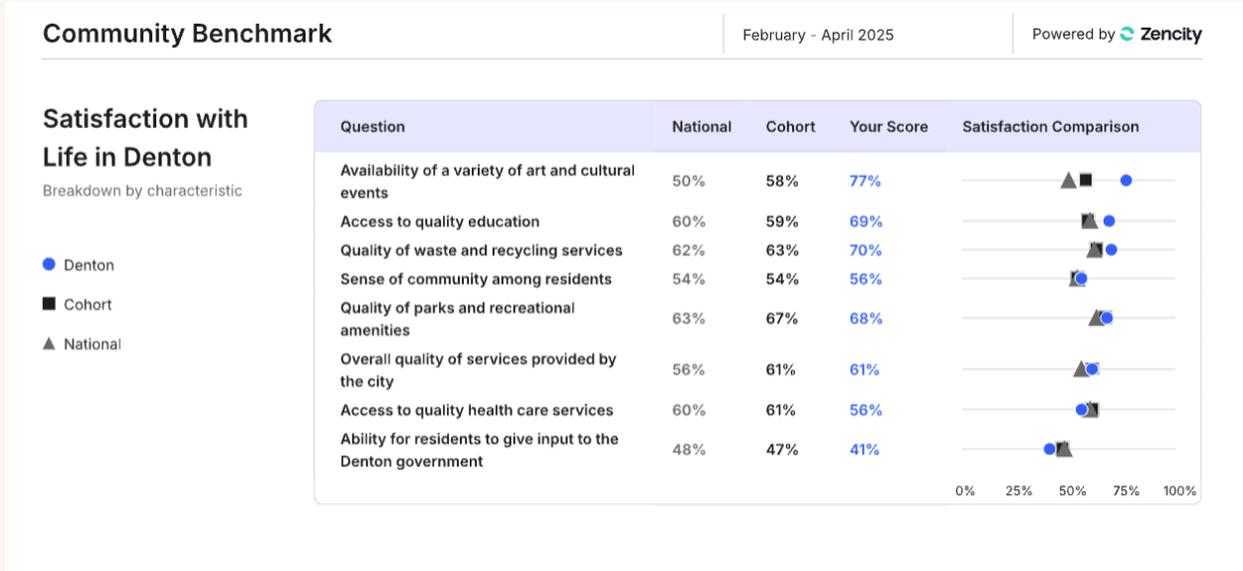
Specifically, the report elucidates the correlations between demographic factors such as age, gender, income level, and educational background with the responses received. Furthermore, it explores how the geographic distribution of respondents across different neighborhoods or districts within Denton may influence the reported sentiments and opinions.



One of the key strengths of our reporting is its adaptability and flexibility to suit Denton's needs. Whether Denton prefers a detailed written analysis, interactive data visualizations, or a dynamic presentation format, we can tailor the report to align with their preferences and requirements. Additionally, our team is equipped to present the findings directly to Denton's Council members, offering valuable insights and recommendations to inform strategic decision-making processes.

The presentation of the report is conducted virtually via Zoom, presented by a Survey Analyst from the Zencity Survey Team and joined by the city's Customer Success Manager and Account Manager.





III. Zencity Engage

Zencity Engage is a dynamic platform designed to support a wide range of public engagement activities, offering a suite of powerful features to ensure seamless and effective community interaction. A collaborative portal for public conversations, Zencity Engage enables Denton stakeholders to foster meaningful dialogue, and understand the community you serve while lowering barriers to participation for city staff and residents. The digital, multilingual engagement tool is designed to make public consultations accessible and meaningful and can also be used for internal surveying purposes (e.g. employee surveys).

The platform provides robust survey capabilities, including skip logic and logic branching, map-based feedback, idea boards, open and closed-ended questions, and participatory budgeting, allowing for dynamic, personalized experiences tailored to residents previous answers. Additionally, Zencity Engage supports the integration of multimedia elements like images and videos within surveys, enhancing clarity and engagement. It also includes full accessibility per AODA standards and is optimized for use across devices.

The platform prioritizes privacy, offering the ability to create fully anonymous surveys by default, ensuring no personally identifiable information is collected unless explicitly requested. This helps foster trust with respondents while enabling valuable insights to be gathered through both mandatory and non-mandatory questions. Zencity Engage also allows for cloning past surveys, reusing questions, and leveraging a built-in question bank to save time and maintain consistency.

For geospatial engagement, Zencity Engage excels with its mapping tools, enabling City staff to add multiple layers to maps, upload geospatial files, and draw boundaries. Participants can drop pins, add comments, and interact with project renderings or draft designs, allowing for precise location-based feedback. All map-based feedback can be exported in CSV format for further analysis.

City staff have full control over user access, with the ability to create unlimited admin accounts, manage user permissions, and configure automatic notifications. The platform supports external third-party collaborators at no additional cost, making it ideal for large-scale, multi-stakeholder projects. With a flexible, user-friendly interface, Zencity Engage enables easy content creation, from simple updates to complex engagement activities, with drag-and-drop functionality and customizable templates.

Zencity Engage also boasts comprehensive data analysis and reporting features. It provides real-time dashboards, crosstabs for detailed analysis, sentiment analysis for textual data, and a variety of visualizations to help City staff understand engagement results. Reports can be customized and exported in multiple formats, ensuring accessibility and integration with other City systems.

Compliance with legal standards is a priority, with the platform ensuring full adherence to privacy and anti-spam regulations. Participants can easily opt in or out of notifications, and all actions are recorded for accountability.

Overall, Zencity Engage offers a comprehensive, scalable solution for City staff to engage with the public effectively, manage large volumes of data, and make informed decisions, all while ensuring compliance, transparency, and ease of use.

- **Tailored and Inclusive Engagement:** Zencity Engage offers local governments easy-to-use survey tools to gather feedback directly from residents on various issues, distributing these surveys via multiple channels such as social media, email, and community websites to ensure broad reach and participation. The platform also integrates multiple communication channels, including social media, email, and web portals, enabling local governments to connect with citizens through their preferred methods and increasing the likelihood of engagement and feedback. Local governments can create and manage customized engagement campaigns tailored to specific issues or projects, incorporating targeted outreach, special surveys, and focused communication efforts to maximize engagement on key topics. Zencity Engage supports multilingual surveys and communications, ensuring full participation from non-English speaking residents. Additionally, the platform offers accessibility features to accommodate residents with disabilities, promoting inclusive participation.

- **Branding:** Zencity Engage is fully branded to Denton's needs, incorporating the images, colors and text that speaks specifically to Denton's unique community. It will allow you to build specific projects for your residents where they can visit a portal, learn about your work, and submit feedback relating their sentiment. Many of our clients use Engage to foster participatory budgeting conversations or allow residents to provide feedback on housing or parks projects.
- **Ease of Use:** Building projects on Engage is simple, and analysis of any engagement effort is completed automatically within the platform—there is no need to export Excel spreadsheets – which allows you to understand results in record time, with machine learning for text analysis, and cross-tabbing for quantitative responses.
- **Unlimited Projects:** Ultimately, Denton has access to an unlimited number of projects, which allows you to create living, breathing project pages that targeted residents can use to:
 - Understand Agency programming (justification, timeline, impacts);
 - Sign up for updates / notifications;
 - Provide direct, in-depth feedback on initiatives; and
 - Collaborate with other residents (overseen by AI moderation).

Reporting

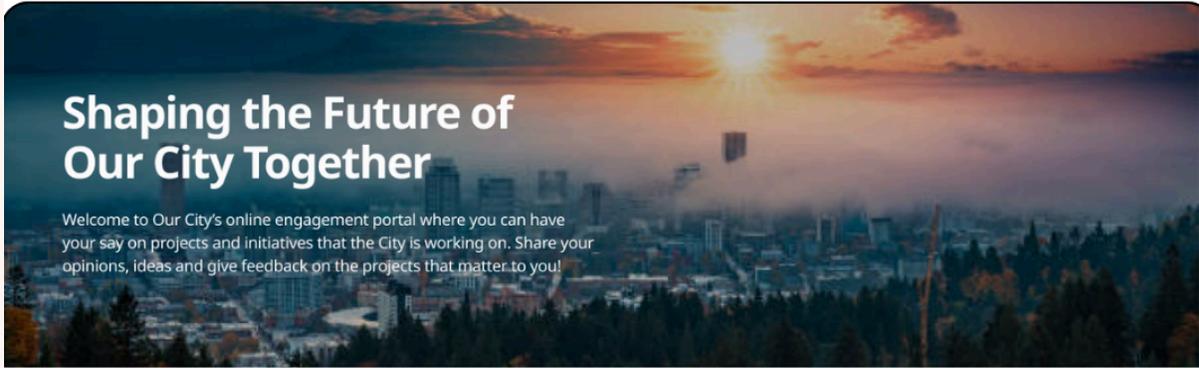
Zencity Engage offers advanced reporting capabilities that elevate the user experience and provide deeper insights into community engagement. These features include:

- **Extended Filtering and Compare Functionality:** Users can leverage extended filtering and compare tools to refine data sets and uncover new insights. This functionality allows for detailed analysis by limiting or cross-tabulating quantitative data sets, enabling users to identify trends and patterns more effectively.
- **Web-based and PDF Reports:** Zencity Engage provides both web-based and PDF reports for convenient access and sharing of insights. Users can easily generate and customize reports to suit their specific needs, ensuring seamless communication of findings to stakeholders.
- **Translated CSV Exports:** Exporting results into a CSV file is made easy with Zencity Engage, facilitating further analysis in tools like Excel or SPSS. Additionally, the platform offers translated CSV exports, allowing users to work with data in multiple languages for enhanced accessibility and inclusivity.
- **Integration with Analytics Platforms:** Zencity Engage seamlessly integrates with popular analytics platforms such as Google Analytics and Facebook Pixel. This integration enables users to gather comprehensive cross-platform insights, enriching their understanding of participant behavior and engagement across different channels.

- **Participant Metadata Management:** Zencity Engage captures participant metadata and ensures result accuracy by de-duplicating results based on IP Address and Digital Fingerprint. This ensures that data integrity is maintained, providing users with reliable and trustworthy insights.
- **Visual Data Representation:** Utilizing customizable charts and visualizations, Zencity Engage allows users to present quantitative data in an aesthetically pleasing manner. This enhances the readability and impact of reports, making it easier for stakeholders to grasp key findings at a glance.
- **Text Analysis and Heat Maps:** The platform employs embedded text-analysis tools to unveil common themes within qualitative responses. Additionally, users can gain insights from heat maps and comment reports generated from map and image pin-drop questions, providing a deeper understanding of community sentiment and preferences.
- **Effortless Report Publishing:** Users can easily share results with participants by publishing reports with just a single click. This streamlines the dissemination of findings, fostering transparency and accountability in community engagement efforts.

Accessibility

Zencity Engage is fully compliant with Section 508 / ADA standards, ensuring accessibility for users with visual impairments and other disabilities. Our platform undergoes rigorous testing to guarantee seamless navigation for screen reader users and keyboard-only operation. Furthermore, Zencity Engage provides color contrast notifications to align with WCAG 2.1 AA guidelines, promoting accessibility for all users. Additionally, our platform employs caching mechanisms, local storage, and image optimization to minimize page load times, enhancing the experience for participants, including those using older browsers or slower internet connections.



Shaping the Future of Our City Together

Welcome to Our City's online engagement portal where you can have your say on projects and initiatives that the City is working on. Share your opinions, ideas and give feedback on the projects that matter to you!

Latest Projects

PLANNING & DEVELOPMENT

Creekside Neighbourhood Plan

Our City is creating a plan for the new Creekside Neighbourhood, a mountainside area known for its open space and trails.

[View Project](#)

ENVIRONMENT & UTILITIES

Road to a Zero Waste City

Over the next 10 years, the City is investing in policies and infrastructure towards meeting and exceeding Provincial Zero Waste mandates.

[View Project](#)

PARKS, RECREATION & CULTURE

2024 Culture Strategy

The Culture Strategy will build on previous City plans, strategies and policies and will provide a vision and an action plan for strengthening culture delivery and services in Our City.

[View Project](#)

How happy are you with the parks and spaces in Springfield?

Answered: 200 · Skipped: 20 · Response Rate: 91%

Legend: Happy (Green), Neutral (Yellow), Unhappy (Red)

District	Happy	Neutral	Unhappy
District 1	30	15	5
District 2	40	10	5

Style Preference

Which Bike Lane Type would you be in favour of?

Legend: Sharrow (1K), Striped (1K), Buffered (2C), Protected (2C)

Re-development Plan

PROJECT PHASES

- Hydraulic Study (Oct - Dec)
- Engineering and Concept Planning (Jan - April)
- Concept Decision Making (May - June)
- Construction (Mid-2023)

Build the skytrain extension from King George all the way to the Langley Casino

This will help the residents of Ferry Beach neighbourhood to get to work more easily, especially those that work downtown. Will save us about 40 minutes every morning.

418 | 82 | 17

Add more car charging stations at rec centres

[Add Your Idea +](#)

244 | 37 | 1045

Engage Use Case Examples

Budget

FY25 Budget

MORTFELLER, VT

The town manager has just finished writing the FY25 budget. It is a process that involves a lot of work and is a result of the town's budgeting process. The budget is a plan for the town's financial future and is a key document for the town's residents. It is a document that is used to guide the town's operations and to ensure that the town's resources are used in the most effective way possible. The budget is a document that is used to guide the town's operations and to ensure that the town's resources are used in the most effective way possible. The budget is a document that is used to guide the town's operations and to ensure that the town's resources are used in the most effective way possible.

*** Your input is essential. Our goal has been and always will be serving the needs of this community. To do that, we look to you for guidance on the direction of activities and the level of services we provide. We balance these needs**

[FY25 Budget](#)

Services

Homeless Services Program

CITY OF BANNING

In response to a grant funding application and the onset of the COVID-19 pandemic, the City of Banning sought to establish an emergency shelter in April 2020. Homeless individuals were placed within the Banning Street Village. During the same month of operation of Banning Street Village, City staff learned more about the operation of a wrap-around shelter. In December 2020, a contract was awarded to an outside vendor to provide wrap-around services for all 20 shelter beds in Banning Street Village. Since that time, no emergency shelter beds have been available within the City of Banning.

In 2024, the 10th U.S. Circuit Court of Appeals ruled in the case **Martin v. City of Banning** that the City of Banning's shelter was not a public facility and therefore not subject to the Fair Housing Act. This ruling freed the hands of local government. The ruling in **Martin v. City of Banning** freed the hands of local government. The ruling in **Martin v. City of Banning** freed the hands of local government. The ruling in **Martin v. City of Banning** freed the hands of local government.

" Providing a person experiencing homelessness with a safe place to stay and where they want to stay increases the ability of wrap-around service providers to connect with the homeless. Many of those experiencing homelessness in Banning have not been able to connect and stay connected with."

[Homeless Services](#)

Projects

Water Main Expansion

TOWN OF BANTUCKET

- Project Timeline: Fall 2023 - Fall 2025
- Project Manager: Water Department Director Mark Willett
- Design Engineer: Daniel D'Amico, CEM/MSW, Inc.
- Resident Project Representative: David Galy, Environmental Partners Group, Inc.

The project is a water expansion of a Water Main Plan as part of the Town's ongoing effort to address ongoing public infrastructure needs west of the depot. The project is a water expansion of a Water Main Plan as part of the Town's ongoing effort to address ongoing public infrastructure needs west of the depot. The project is a water expansion of a Water Main Plan as part of the Town's ongoing effort to address ongoing public infrastructure needs west of the depot.

Mark Willett
Water Department Director

IMPORTANT INFORMATION

PROJECT UPDATES

IMPORTANT DATES

May 2, 2024

[Water Main Expansion](#)

IV. Zencity Customer Experience Survey

In addition to the representative Community Survey, Zencity Customer Experience Surveys help cities improve community services with continuous resident satisfaction polls that deliver clear, ongoing feedback and enable data-driven performance recommendations.

Experience Surveys explore customer experience (CX) by gathering feedback from individuals who interact with various service providers. Organizations typically use them to determine how well they are performing and where they need to improve. This feedback is crucial for assessing and enhancing service quality. In local government, agencies use the feedback to assess service performance, monitor staff interactions, and analyze suggestions for improvement.

Experience surveys are key to understanding the efficacy and quality of services provided. They help to:

- **Gauge Customer Satisfaction:** By collecting feedback directly from the individuals who receive services, you can measure satisfaction levels.
- **Identify Areas for Improvement:** Feedback highlights specific areas where services may be lacking and need enhancement.
- **Enhance Accountability:** Regular surveys ensure that service providers remain accountable for the quality of their interactions.
- **Inform Policy and Decision-Making:** Survey data can inform broader policy decisions and strategic planning.

Enable residents to provide feedback on City services immediately following an interaction:

- **Accessible feedback channels:** Our short questionnaire has been purposely crafted to remove common barriers to participation—like time and language—so more resident groups can easily take part
- **Smart Distribution:** The distribution mechanism is adjusted to your needs to make sure that each service you provide is followed by the right questionnaire, delivered at the right time and place.
- **Always-on Dashboard:** See results update as more submissions come in and access a live feed of open-ended responses that are automatically analyzed and classified.
- **Reporting:**

Survey Process: Whenever a resident (Actor) interacts with the city’s 311 (Service Provider), it involves receiving a specific service (Service Type) and, often but not always, engaging with a staff member (Staff). We refer to this occurrence as the Interaction. Typically, a record of this interaction is created (Case Record). Interactions can vary in duration:

- Short-term Interactions: These last only a few minutes (e.g., a traffic stop).
- Long-term Interactions can extend over months (e.g., a 311 public works request).

When an interaction is completed (resolved), the service provider can issue an Experience Survey to the actor. This survey allows the actor to evaluate the specific interaction and the service provider in general:

- **Notification:** The actor receives a notification requesting they complete a survey. The notification timeframe varies depending on your preference. Notifications are sent through SMS and Email.
- **Submission:** If the actor chooses to participate, their responses are recorded as a survey submission.

Data Integration and Analysis

Experience survey integration involves integrating your case record management system (CRM, CAD/RMS, or any other organizational system) with Zencity’s survey platform. The integration process is done once, enabling a seamless survey distribution process. There are various ways to integrate the case record data:

- **API Integrations:** APIs (Application Programming Interfaces) enable data to be sent and received between the survey platform and other software, automating the survey distribution and data collection process.
- **Webhooks:** Webhooks are automated messages sent from one system to another when a specific event occurs. For example, when a survey is completed, a webhook

can trigger an action in another system, such as updating a customer's profile in a CRM.

- **Embedding Surveys:** Experience Surveys can be embedded into emails, websites, or apps using HTML or JavaScript. This allows for seamless integration where users can fill out surveys without leaving the platform they are currently using.
- **Data Export/Import:** Some integrations involve exporting data in formats like CSV or Excel and then importing it into another system. This can be done manually or automated through scheduled data transfers.
- **Custom Integrations:** In cases where pre-built integrations are unavailable, custom integrations can be developed. This involves using APIs and webhooks to create tailored solutions that meet specific business needs. Zencity's technical team will make sure to find the optimal custom solution in partnership with your technical representatives.

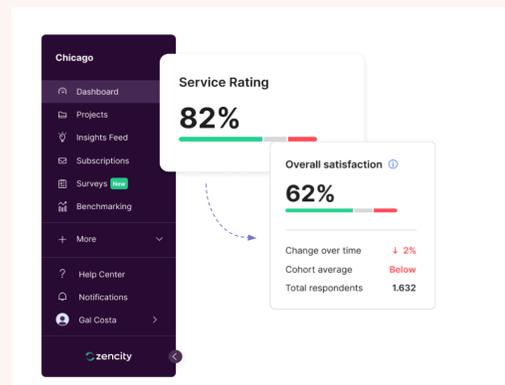
Once an integration is set up, Zencity processes the data from both the case record and the survey submission and presents an analysis of the responses on a live dashboard. This dashboard offers a comprehensive analysis of resident feedback, categorized by "service type" and other criteria, focusing on subjective experience through a standardized question set. Questions are assigned with Key Performance Indicators (KPIs). The standard version uses the following KPIs:

1. Overall Performance
2. Service Performance
3. Staff Performance
4. Reliability Rating

Reporting

With Zencity Reporting for Experience Surveys, individuals can subscribe to report cadences of their choice updating on scores, changes and notable comments from residents broken down by services. Additionally, automated weekly email digest are available with weekly performance reports that are clean, branded summaries showing key metrics and trends. The digest covers weekly response counts and performance scores vs. year-to-date comparisons.

What's included:



- Weekly response volumes
 - Performance scores with year-to-date comparisons
 - Key aspects like Interaction, and Reliability scores
-

4. Onboarding, Training, and Ongoing Success Support

Customized Onboarding Plan

Our onboarding process is led by a dedicated Customer Success Manager (CSM) and tailored to meet the City of Denton's specific goals and workflows. This ensures a seamless platform configuration, knowledge transfer, and immediate alignment with the City's engagement priorities.

As partners of the City of Denton since 2024, the Zensity Organic Dashboard is already up and running, collecting live public feedback from residents which reduces any implementation or set up time for launching. The Zensity Annual Community Survey already completed its first cycle in April 2025, so future surveys will provide over time comparative data and a smooth launch since GIS .shp file for city Districts and language preferences have already been determined.

Structured Timeline and Training Milestones

For the continued and ongoing training and support for Zensity Organic and Zensity Annual Community Survey and the launch of Zensity Engage and Experience Surveys, we propose a phased onboarding and training schedule over 12 weeks, including live sessions, hands-on learning, and check-ins to ensure adoption and impact:

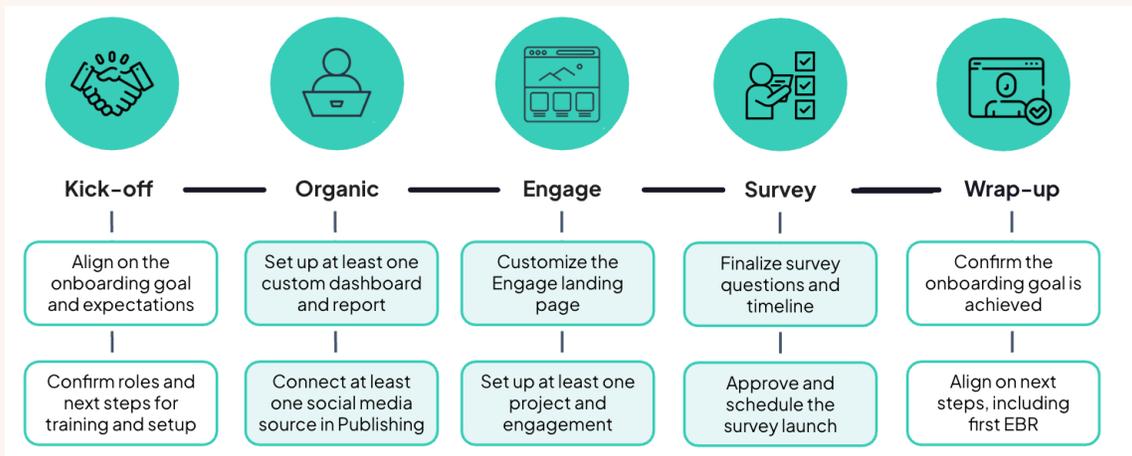
The timeframe is flexible giving the ongoing collaboration, existing integrations, and can be adapted according to the City of Denton's needs.

- **Week 1: Kick-off Meeting** – Introduction of teams, newly added Zensity Products, project goals, success metrics, and onboarding roadmap.
- **Week 2–3: Platform Configuration** –
 - Zensity Organic: **already configured**
 - Zensity Annual Community Survey: **already configured, will revisit 2 months prior to launching the 2025 survey**
 - Zensity Engage: configure branding set up and customize landing page, guided setup of admin tools, data integration, and permission settings.

- Zencity Experience Survey: identify potential integration set up with City of Denton’s Veerant 311. Will need to configure for which city services the experience survey is relevant for as well as distribution method (i.e. SMS, email, QR code)
- **Week 5: Admin Training** – In-depth training for system administrators on managing users, content, and dashboards for each respective tool.
- **Week 7: End-User Training** – Role-based training on functional use, including analytics, map tools, and survey deployment.

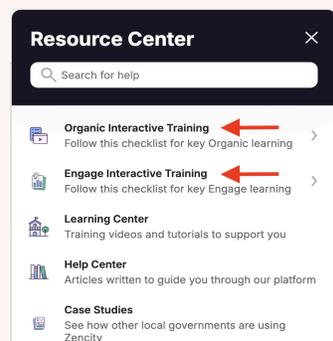
Training Plan:

- Delivered through regular meetings with the Zencity onboarding team
- Covers key aspects of Engage setup and usage, as well as refresher for Organic for new and existing users
- Consultation with your CSM to plan your next Annual Community Survey launch
- Option to supplement with interactive training, learning center, and open training sessions (choose what works best for you)
- Wrap-up meeting at conclusion of training
- In addition to your CSM, online interactive and self-paced training for Zencity’s tools are available within the platform, always-on.
- **Week 10: Advanced Use & Strategy** – Deep dive into reporting, accessibility tools, segmentation, and engagement strategy.
- **Week 12: Optimization & Review** – Final wrap-up session to review platform performance, gather feedback, and refine strategy for ongoing use.



Supplemental Resources

- Self-paced video tutorials and guided walkthroughs



- User manuals tailored to City workflows
- Full access to the Zencity Knowledge Hub
- Live webinars for new features and use cases

Ongoing Customer Success Check-ins

To meet the City of Denton’s requirement for regular success tracking, we will hold **monthly success check-ins** with your CSM to:

- Monitor platform usage and impact
- Review engagement results
- Discuss upcoming initiatives and how the platform can support them
- Provide recommendations and share best practices from peer cities

These check-ins ensure continuous alignment with the City’s goals, facilitate strategic support, and drive long-term value from the Zencity platform.

5. Proposed Cost

Total All-Inclusive Yearly Cost: \$89,820

This total includes **all** services, features, and support outlined in our RFP response. There are no hidden fees or additional charges. All services will be delivered in accordance with the agreed timeline and scope of work.

Line	DESCRIPTION	Year 1	Year 2	Year 3	Year 4	Year 5	Supplier Notes
Combined Community Engagement and Community Sentiment Software							
1	Social Media Management	\$24,000	\$24,000	\$24,000	\$24,000	\$24,000	This refers to the Zencity Organic Product, and is the same rate locked-in for the city’s current scope of services.
2	Public Sentiment Measurement and Monitoring	\$25,820	\$25,820	\$25,820	\$25,820	\$25,820	This refers to the Annual Zencity Community Survey product as well as Zencity Organic, and is the same rate locked-in for the city’s current scope of services.

3	Interactive Community Engagement Platform	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000	This refers to the Zencity Engage Product.
4	Customer Experience Surveys	Included	Included	Included	Included	Included	This refers to the Customer Experience Surveys. While not explicitly referred to in the RFP Zencity does have an Experience Survey Product that has been detailed in the RFP.
5	Media Mention Aggregation and Reporting	Included	Included	Included	Included	Included	This is part of the Zencity Organic Product, and therefore no added cost beyond the "Social Media Management" line item
TOTAL		\$79,820	\$79,820	\$79,820	\$79,820	\$79,820	

Exhibit G

CONFLICT OF INTEREST QUESTIONNAIRE

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).

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.

Zencity Technologies US 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.
No conflict of interest

Name of Officer

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

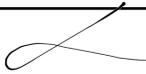
A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?
 Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?
 Yes No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?
 Yes No

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

4 I have no Conflict of Interest to disclose.

5 

June 23, 2025

Signature of vendor doing business with the governmental entity

Date

Certificate Of Completion

Envelope Id: 6C4C65D1-1F5A-4E4D-82CD-0D9625E5E15D

Status: Sent

Subject: Please DocuSign: City Council Contract 8852 -Community Engagement and Community Sentiment Software

Source Envelope:

Document Pages: 79

Signatures: 3

Envelope Originator:

Certificate Pages: 6

Initials: 1

Kayla Clark

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

kayla.clark@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Kayla Clark

Location: DocuSign

8/11/2025 7:59:33 AM

kayla.clark@cityofdenton.com

Signer Events

Signature

Timestamp

Kayla Clark

Completed

Sent: 8/11/2025 8:07:08 AM

kayla.clark@cityofdenton.com

Viewed: 8/11/2025 8:07:33 AM

Buyer

Signed: 8/11/2025 8:08:59 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 8/11/2025 8:09:04 AM

lori.hewell@cityofdenton.com

Viewed: 8/11/2025 11:44:51 AM

Purchasing Manager

Signed: 8/11/2025 11:46:25 AM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 8/11/2025 11:46:30 AM

marcella.lunn@cityofdenton.com

Viewed: 8/11/2025 11:48:39 AM

Senior Deputy City Attorney

Signed: 8/11/2025 11:58:50 AM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Eyal Feder

DocuSigned by:
Eyal Feder
C8E45DAF58FB48A...

Sent: 8/11/2025 11:58:56 AM

eyal@zencity.io

Viewed: 8/11/2025 3:53:36 PM

CEO

Signed: 8/11/2025 3:54:21 PM

Zencity Technologies US inc.

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address:

2601:18e:c37e:4200:c55d:1840:3ee0:3c59

Electronic Record and Signature Disclosure:

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Signer Events

Dustin Sternbeck
Dustin.Sternbeck@cityofdenton.com
Chief Communications Officer
Security Level: Email, Account Authentication (None)

Signature

Signed by:

1CD02F73605548A...
Signature Adoption: Pre-selected Style
Using IP Address: 198.49.140.10

Timestamp

Sent: 8/11/2025 3:54:27 PM
Resent: 8/14/2025 8:23:10 AM
Viewed: 8/14/2025 8:33:54 AM
Signed: 8/14/2025 8:36:47 AM

Electronic Record and Signature Disclosure:
Accepted: 8/14/2025 8:33:54 AM
ID: a2790737-16a5-4468-8d39-3e4849fa3c7b

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

Sent: 8/14/2025 8:36:56 AM

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: 8/11/2025 8:09:04 AM

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: 8/14/2025 8:36:55 AM
Viewed: 8/14/2025 11:58:27 AM

Carbon Copy Events	Status	Timestamp
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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

Kayla Herrod
Kayla.herrod@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Accepted: 6/9/2025 8:26:51 AM
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	8/14/2025 8:01:56 AM

Payment Events	Status	Timestamps
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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:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1540, **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 Techline, Inc., for the purchase of transmission hardware supplies to be stocked in the City of Denton Warehouse; providing for the expenditure of funds therefor; and providing an effective date (IFB 8872 - awarded to Techline, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,500,000.00).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Techline, Inc., for the purchase of transmission hardware supplies to be stocked in the City of Denton Warehouse; providing for the expenditure of funds therefor; and providing an effective date (IFB 8872 – awarded to Techline, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,500,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

There are 118 catalog items on this IFB that are critical to transmission line project construction for Denton Municipal Electric (DME). Conductor attachments and pole hardware are necessary for connecting insulators, conductors, and compression fittings to each other, poles, or other equipment. Spiral dampers absorb vibration and reduce noise associated with the vibration, allowing a more comfortable environment. The nuts and bolts hardware facilitate the installation of insulators, conductors, compression fittings, and vibration dampers. The supply of transmission hardware will be stocked in the Warehouse for ease of access. The supplies will be ordered on an as-needed basis to maintain appropriate stocking levels, as well as ordered well in advance for planned Capital Projects regarding transmission lines.

Project Description	Estimated 5-Year Expenditure
Year 1	\$250,000
Year 2	250,000
Year 3	250,000
Year 4	250,000
Year 5	250,000
Contingency for Price Increases	250,000
Total	\$ 1,500,000

Invitation for Bids was sent to 453 prospective suppliers of this item, including 13 firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised

in the local newspaper. Three (3) bids meeting specifications were received. The lowest bid was received by Techline, Inc.

NIGP Code Used for Solicitation:	285– Electrical Equipment and Supplies (Except Cable and Wire)
Notifications sent for Solicitation sent in IonWave:	453
Number of Suppliers that viewed Solicitation in IonWave:	24
HUB-Historically Underutilized Business Invitations sent out:	50
SBE-Small Business Enterprise Invitations sent out:	179
Responses from Solicitation:	3

RECOMMENDATION

Award a contract to Techline, Inc., for the supply of transmission hardware for the City of Denton Warehouse, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$1,500,000.

PRINCIPAL PLACE OF BUSINESS

Techline, Inc.
Fort Worth, 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 items will be funded out of the Warehouse Working Capital account, stocked in the Warehouse, and charged back to the using department as needed. The budgeted amount of this item is \$1,500,000.

EXHIBITS

- Exhibit 1: Agenda Information Sheet
- Exhibit 2: Bid Tabulation
- Exhibit 3: Ordinance and Contract

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

For information concerning this acquisition, contact: Keith Kading, 940-349-7178.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2

IFB 8872 - Bid Tabulation for Electric Transmission Hardware

							Respondent's Business Name:		Stuart C. Irby		Texas Electric Cooperatives	
							Principal Place of Business (City and State):		Fort Worth, TX		Georgetown, TX	
Line #	Description	Mfgr	Mfgno	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended	
1	SECTION A- HUBBELL BRAND PRODUCTS											
2	JUMPER CLAMP, POST INSULATOR, AL, DBL 1.0-1.4"D, FOR 2-HOLE BLADE, 18" SPACING	Hubbell	2717243001	1	EA	\$420.42	\$420.42	\$4,557.40	\$4,557.40	\$1,032.26	\$1,032.26	
3	JUMPER CLAMP, POST INSULATOR, AL, SGL 1.0-1.4"D, FOR 2-HOLE BLADE	Hubbell	976423002	1	EA	\$283.30	\$283.30	\$292.52	\$292.52	\$578.49	\$578.49	
4	CLAMP-CABLE TO INSULATOR SUPPORT, 0.522"-1.632" DIA, 11/16" HOLES ON 5" BC W\ MOUNTING HARDWARE	Hubbell	ASR2005	1	EA	\$148.79	\$148.79	\$161.90	\$161.90	\$407.53	\$407.53	
5	DAMPER-STOCKBRIDGE VIBRATION, 959.6 ACSS/TW/HS BARE, .859-1.130"D CLAMP	Hubbell	60710-12	1	EA	\$112.50	\$112.50	\$117.50	\$117.50	\$230.11	\$230.11	
6	ANCHOR SHACKLE 7/8"WD, 3/4" PIN, 60K, GALV BNC	Hubbell	AS50BNK	1	EA	\$19.62	\$19.62	\$21.60	\$21.60	\$94.62	\$94.62	
7	ANCHOR SHACKLE 7/8"WD, 5/8" PIN, 30K, GALV BNC	Hubbell	AS25LBNK	1	EA	\$9.59	\$9.59	\$10.50	\$10.50	\$50.54	\$50.54	
8	CLEVIS-EYE, 7/8" WIDE CLEVIS, 1-3/4" WIDE EYE, 5/8"D PIN, 11/16"D HOLE, BNC	Hubbell	CA16BNK	1	EA	\$50.80	\$50.80	\$50.80	\$50.80	\$97.85	\$97.85	
9	CLEVIS-SOCKET 7/8" WIDE 5/8"D PIN 30K BNC	Hubbell	SC30-BNK	1	EA	\$51.48	\$51.48	\$50.90	\$50.90	\$100.00	\$100.00	
10	LINK-CHAIN EYE 3/4" 60K 1"X3-1/2" OPENING	Hubbell	LK60	1	EA	\$22.50	\$22.50	\$27.10	\$27.10	\$62.37	\$62.37	
11	SOCKET-EYE 1" WIDE EYE, 11/16"D HOLE 30K	Hubbell	SA10	1	EA	\$27.90	\$27.90	\$30.40	\$30.40	\$69.89	\$69.89	
12	SOCKET-EYE 1" WIDE EYE, 13/16"D HOLE 30K	Hubbell	SA1013	1	EA	\$26.87	\$26.87	\$29.20	\$29.20	\$65.59	\$65.59	
13	SOCKET-EYE 1-3/4" WIDE EYE, 11/16" HOLE 30K	Hubbell	SA16	1	EA	\$38.30	\$38.30	\$39.50	\$39.50	\$77.42	\$77.42	
14	Y-CLEVIS BALL HOT LINE, 9-5/16" LONG, 3/4"D PIN, 30K	Hubbell	HYBC30	1	EA	\$72.58	\$72.58	\$71.80	\$71.80	\$140.86	\$140.86	
15	Y-CLEVIS BALL, 3/4"D PIN, 30K	Hubbell	YBC30	1	EA	\$10.54	\$10.54	\$11.60	\$11.60	\$62.37	\$62.37	
16	Y-CLEVIS EYE, 90 DEG, 1" WIDE EYE, 3/4" BOLT, 30K GALV	Hubbell	YCS1090	1	EA	\$41.95	\$41.95	\$48.20	\$48.20	\$138.71	\$138.71	
17	Y-CLEVIS SOCKET, 3/4"D PIN, 30K	Hubbell	SYC30	1	EA	\$23.72	\$23.72	\$27.30	\$27.30	\$106.45	\$106.45	
18	YOKE PLATE, 3-POINT, 3/4" THK, 18"X5", (1)1-1/8" (2) 1-1/4" HOLES, 50K	Hubbell	YPD5018549-1	1	EA	\$358.00	\$358.00	\$379.50	\$379.50	\$750.54	\$750.54	
19	YOKE PLATE, 4-POINT, 5/8" THK, 18"X6", (2) 11/16" (2) 15/16" HOLES, 30K	Hubbell	976113002	1	EA	\$606.18	\$606.18	\$599.50	\$599.50	\$1,173.12	\$1,173.12	
20	SUSPENSION CLAMP, AL 0.70-1.18" 25K W/SOCKET EYE (SA-10) BNC	Hubbell	HAS118SBNK	1	EA	\$151.66	\$151.66	\$150.00	\$150.00	\$293.55	\$293.55	
21	CLEVIS SOCKET	Hubbell	SC501	1	EA	\$64.00	\$64.00	\$72.70	\$72.70	\$191.40	\$191.40	
22	Y CLEVIS 90 DEGREE	Hubbell	YCC3090	1	EA	\$65.00	\$65.00	\$70.70	\$70.70	\$222.58	\$222.58	
23	YOKE PLATE CRESCENT	Hubbell	YPC509378	1	EA	\$695.00	\$695.00	\$742.30	\$742.30	\$1,452.69	\$1,452.69	
24	SUSPENSION CLAMP	Hubbell	MS60SBNK	1	EA	\$114.46	\$114.46	\$128.00	\$128.00	\$221.51	\$221.51	
25	SECTION B- PREFORMED BRAND PRODUCTS											
26	DAMPER-SPIRAL VIBRATION, .564-.760"D, 66" LONG (OPGW)	Prefomed	5050106	1	EA	\$15.32	\$15.32	\$18.50	\$18.50	\$14.49	\$14.49	
27	ARMOR-GRIP SUSPENSION, 0.769" - 0.795" DIA, CAIRO, AAAC	Prefomed	AGS-5115	1	EA	\$76.02	\$76.02	\$90.40	\$90.40	\$74.95	\$74.95	
28	ARMOR-GRIP SUSPENSION, 1.091"-1.118" DIA, 82" LG RODS, 200C RATING	Prefomed	AGS-5130	1	EA	\$124.50	\$124.50	\$188.30	\$188.30	\$123.39	\$123.39	
29	ARMOR-GRIP SUSPENSION	Prefomed	AGS-5831	1	EA	\$250.00	\$250.00	\$188.30	\$188.30	\$248.11	\$248.11	
30	SPACER-CUSHION GRIP, 2-BUNDLE 18" SPACING, 1.107"-1.146"D, 200C RATING	Prefomed	CGTS-0112HT	1	EA	\$70.18	\$70.18	\$91.98	\$91.98	\$71.15	\$71.15	
31	DAMPER-SPIRAL VIBRATION, .327-.461"D, 51" LONG (EHS)	Prefomed	5050104	1	EA	\$5.80	\$5.80	\$6.40	\$6.40	\$5.48	\$5.48	
32	CLEVIS EYE	Prefomed	CE-5105	1	EA	\$11.08	\$11.08	\$10.00	\$10.00	\$11.16	\$11.16	
33	YOKE PLATE 3 PT 26" SPACING	Prefomed	YP-5910	1	EA	\$140.40	\$140.40	\$1.00	\$1.00	\$141.31	\$141.31	
34	ARMOR ROD	Prefomed	AR1130	1	EA	\$7.24	\$7.24	\$9.10	\$9.10	\$7.16	\$7.16	
35	Y-CLEVIS EYE, 0.751-1.005", 11/16" HOLE, 20K	Prefomed	YC-5207	1	EA	\$14.48	\$14.48	\$35.50	\$35.50	\$14.58	\$14.58	
36	Y-CLEVIS-CLEVIS-90 + ^	Prefomed	YCC3090	1	EA	\$38.18	\$38.18	\$53.20	\$53.20	\$39.08	\$39.08	
37	Y-CLEVIS-EYE	PREFORMED	YC-5209	1	EA	\$14.59	\$14.59	\$1.00	\$1.00	\$14.69	\$14.69	
38	SECTION C- HARDWARE - MISC BRAND PRODUCTS											
39	WIRE-7#7 CO WELD, 7STR 0.433"	AFL	CCS07074D	1	FT	\$4.60	\$4.60	\$1.00	\$1.00	\$2.96	\$2.96	
40	WIRE-FLEX 2/0 AWG 1274/30 STR	CU WELDING	CHW25320101	1	FT	\$4.05	\$4.05	\$1.00	\$1.00	\$4.30	\$4.30	
41	CLAMP-PG, AL BOLTED, .398"	BLACKBURN	PAC7	1	EA	\$12.30	\$12.30	\$35.40	\$35.40	\$15.83	\$15.83	
42	CONNECTOR, COMP, CU 1/0SOL-2/0	BURNDY	YC26C26	1	EA	\$3.40	\$3.40	\$4.22	\$4.22	\$4.08	\$4.08	
43	CLAMP-GR, 2/0-250 CA,1-1/8"	BURNDY	GAR1529	1	EA	\$23.70	\$23.70	\$40.25	\$40.25	\$38.95	\$38.95	

Exhibit 2

IFB 8872 - Bid Tabulation for Electric Transmission Hardware

Line #	Description	Mfgr	Mfgno	QTY	UOM	Techline, Inc.		Stuart C. Irby		Texas Electric Cooperatives	
						Unit	Extended	Unit	Extended	Unit	Extended
						Respondent's Business Name: Principal Place of Business (City and State):		Fort Worth, TX		Fort Worth, TX	
44	CLAMP-GR 2/0-250 CA, TO 1-3/8"	BURNDY	GAR1629	1	EA	\$29.80	\$29.80	\$41.48	\$41.48	\$40.14	\$40.14
45	CLAMP-GR, 2/0-250 CA TO 2"	BURNDY	GAR1829	1	EA	\$40.15	\$40.15	\$57.60	\$57.60	\$55.74	\$55.74
46	LUG-COMP 1HL 2/0 AWG 1/2" BOLT	TIN PLTD, BUR	YA26L6-BOX	1	EA	\$4.92	\$4.92	\$4.95	\$4.95	\$4.76	\$4.76
47	LUG-COMP 2 HL 2/0 AWG 1/2"BOLT	TIN PLTD BURN	YA262N / N125	1	EA	\$6.78	\$6.78	\$6.70	\$6.70	\$6.57	\$6.57
48	JUMPER CLAMP, POST INSULATOR, AL, DBL 1.108-1.196"D W/ 5" BC, 18" SPACING	SEFCOR	ASCAHV-35-5	1	EA	\$125.00	\$125.00	\$1.00	\$1.00	\$122.92	\$122.92
49	YOKE PLATE, 3-POINT, 5/8" THK, 18"X6-1/4", (1) 1" (2) 13/16" HOLES, 40K	HUGHES	AS2585Z	1	EA	\$146.00	\$146.00	\$137.37	\$137.37	\$134.41	\$134.41
50	BANDING ADAPTER-POST INSULATOR, 5-1/2"X14", (2) 5/8"X6"LG BOLTS W/ NUT, 12" SPACING, FOR 1-1/4" BANDING	ALUMA-FORM	D-4080-BS2-6"BOLT	1	EA	\$138.00	\$138.00	\$164.00	\$164.00	\$148.98	\$148.98
51	WEIGHT-50LBS, 1.108" DIA 795 DRAKE OR EQUIV, 138KV	N H INDUSTRIE	501108	1	EA	\$610.00	\$610.00	\$1.00	\$1.00	\$2.86	\$2.86
52	ANCHOR PLATE FOR 3/4" ANCHOR ROD, GALVANIZED	MACLEAN/Hubbell# X20	J3520	1	EA	\$69.35	\$69.35	\$81.06	\$81.06	\$78.44	\$78.44
53	ROD, ANCHOR, TWIN EYE, 3/4" X 8"-0"	HUBBELL	5358	1	EA	\$40.25	\$40.25	\$30.82	\$30.82	\$131.18	\$131.18
54	BOLT-MACH 1/2"X4-1/2" HEX-HD	GALV, HUGHES	HB54-1/2-1-1/4	1	EA	\$2.85	\$2.85	\$2.99	\$2.99	\$2.57	\$2.57
55	BOLT-MACH 5/8"X3 GALV HEX-HD w/Nut	HUGHH	HB63-1-1/2	1	EA	\$3.70	\$3.70	\$4.10	\$4.10	\$3.33	\$3.33
56	BOLT-MACH 1/2" X 1" -13 SS ^ w/Nut	HEX-HD		1	EA	\$2.50	\$2.50	\$0.75	\$0.75	\$0.77	\$0.77
57	BOLT-MACH 1/2" X 3" -13 SS ^ w/Nut	HEX-HD		1	EA	\$5.50	\$5.50	\$1.10	\$1.10	\$1.29	\$1.29
58	BOLT, HEX GA 3/4" X 4" ^	ASTM A307	F#1191964	1	EA	\$6.50	\$6.50	\$1.00	\$1.00	\$6.69	\$6.69
59	LOCKNUT 1"-8 YZ 8^		F# 37192	1	EA	\$0.70	\$0.70	\$1.40	\$1.40	\$1.91	\$1.91
60	BOLT, HEX 1-8X3-1/2" A307 AZ		F#11467	1	EA	\$8.85	\$8.85	\$3.09	\$3.09	\$4.61	\$4.61
61	NUT, HEX 1"8 FHN YZ 8		F# 36420	1	EA	\$2.30	\$2.30	\$1.40	\$1.40	\$0.88	\$0.88
62	BOLT, MACH, 3/4" X 3" GALV SQ w/Nut		HD W/ NUT HUB73-1-3/4	1	EA	\$7.35	\$7.35	\$2.90	\$2.90	\$5.10	\$5.10
63	WASHER RND 2",13/16"H,1/4"T		GALVANIZED H#RW270	1	EA	\$1.48	\$1.48	\$0.40	\$0.40	\$1.77	\$1.77
64	WASHER SPLIT LCK FOR 3/4" BLT	HUGHES	SLW70 / CHANCE 4037	1	EA	\$0.27	\$0.27	\$0.25	\$0.25	\$0.31	\$0.31
65	WASHER-ROUND 1-3/8"D X 9/16"H GALV	HUBBEL	PS6803	1	EA	\$0.25	\$0.25	\$0.29	\$0.29	\$0.15	\$0.15
66	WASHER-RND 2"DX11/16"HX1/4"T GALV	HUGHES	RW260	1	EA	\$1.48	\$1.48	\$1.46	\$1.46	\$1.77	\$1.77
67	WASHER-SPLIT LOCK FOR 5/8" GALV	HUGHES	SLW60	1	EA	\$0.20	\$0.20	\$0.22	\$0.22	\$0.23	\$0.23
68	BOLT, 3/4" x 1 1/4" ^ GALVANIZED STEEL		A307	1	EA	\$5.50	\$5.50	\$1.65	\$1.65	\$0.99	\$0.99
69	WASHER-FLAT 3/4" GALVANIZED STEEL			1	EA	\$0.30	\$0.30	\$0.35	\$0.35	\$0.71	\$0.71
70	WASHER-LOCK 1/2 " BOLT SS STAINLESS STEEL			1	EA	\$0.25	\$0.25	\$0.15	\$0.15	\$0.16	\$0.16
71	WASHER, LOCK 3/4" HOLE ^ GALVANIZED STEEL			1	EA	\$0.30	\$0.30	\$0.25	\$0.25	\$0.31	\$0.31
72	WASHER, FLAT USS 1" YZ		F# 33866	1	EA	\$0.50	\$0.50	\$0.34	\$0.34	\$1.18	\$1.18
73	BOLT, 3/4" x 1 1/2" ^ GALVANIZED STEEL			1	EA	\$5.85	\$5.85	\$1.10	\$1.10	\$1.17	\$1.17
74	NUT, HEX 3/4" GALVANIZED STEEL			1	EA	\$0.50	\$0.50	\$0.30	\$0.30	\$0.46	\$0.46
75	WASHER-RND 2"DX15/16"HX1/4"T ^ GALVANIZED STEEL	HUGHES	RW280	1	EA	\$1.48	\$1.48	\$1.41	\$1.41	\$1.77	\$1.77
76	BOLT, GV STEEL 1/2" x 2" ^ GALVANIZED		A307	1	EA	\$4.50	\$4.50	\$0.57	\$0.57	\$1.63	\$1.63
77	BOLT, GV STEEL 1/2" x 2 1/2" ^ GALVANIZED		A307	1	EA	\$4.65	\$4.65	\$0.57	\$0.57	\$1.63	\$1.63
78	BOLT, GV STEEL 5/8" x 1 1/2" ^ GALVANIZED		A307	1	EA	\$5.00	\$5.00	\$0.90	\$0.90	\$1.99	\$1.99
79	BOLT, GV STEEL 5/8" x 2" ^ GALVANIZED		A307	1	EA	\$5.30	\$5.30	\$0.90	\$0.90	\$2.10	\$2.10
80	BOLT, GV STEEL 5/8" x 2 3/4" ^ GALVANIZED		A307	1	EA	\$5.50	\$5.50	\$1.05	\$1.05	\$2.31	\$2.31
81	HEX NUT, GV STEEL 1/2" ^ GALVANIZED		A307	1	EA	\$0.65	\$0.65	\$0.40	\$0.40	\$0.22	\$0.22
82	WASHER-FLAT, GV STEEL 1/2" ^ GALVANIZED		A307	1	EA	\$0.25	\$0.25	\$0.20	\$0.20	\$0.15	\$0.15
83	WASHER-LOCK, GV STEEL 1/2" ^ GALVANIZED		A307	1	EA	\$0.25	\$0.25	\$0.15	\$0.15	\$0.12	\$0.12
84	BOLT, GV STEEL 3/8" x 1" ^ GALVANIZED		A307	1	EA	\$5.00	\$5.00	\$0.25	\$0.25	\$0.35	\$0.35
85	HEX NUT, GV STEEL 3/8" ^ GALVANIZED		A307	1	EA	\$0.45	\$0.45	\$0.10	\$0.10	\$0.06	\$0.06
86	FLAT WASHER, GV STEEL 3/8" ^ GALVANIZED S			1	EA	\$0.20	\$0.20	\$0.10	\$0.10	\$0.11	\$0.11
87	LOCK WASHER, GV STEEL 3/8" ^ GALVANIZED S			1	EA	\$0.20	\$0.20	\$0.10	\$0.10	\$0.05	\$0.05
88	BOLT, GV STEEL 5/8" x 1" ^ GALVANIZED		A307	1	EA	\$3.50	\$3.50	\$0.64	\$0.64	\$1.99	\$1.99
89	HEX NUT, GV STEEL 5/8" ^ GALVANIZED S			1	EA	\$0.50	\$0.50	\$0.25	\$0.25	\$0.44	\$0.44
90	FLAT WASHER, GV STEEL 5/8" ^ GALVANIZED S			1	EA	\$0.25	\$0.25	\$0.30	\$0.30	\$0.42	\$0.42

Exhibit 2

IFB 8872 - Bid Tabulation for Electric Transmission Hardware

						Techline, Inc.		Stuart C. Irby		Texas Electric Cooperatives	
						Fort Worth, TX		Fort Worth, TX		Georgetown, TX	
Line #	Description	Mfgr	Mfgno	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended
91	LOCK WASHER, GV STEEL 5/8" ^ GALVANIZED S			1	EA	\$0.25	\$0.25	\$0.15	\$0.15	\$0.23	\$0.23
92	BEVEL WASHER, GV STEEL 5/8" ^ GALVANIZED S			1	EA	\$1.65	\$1.65	\$0.40	\$0.40	\$1.43	\$1.43
93	BOLT, STN STEEL 1/2"X2" ^ STAINLESS STEEL		A304	1	EA	\$3.50	\$3.50	\$0.58	\$0.58	\$0.84	\$0.84
94	BOLT, STN STEEL 1/2"X2 1/4" ^ STAINLESS STEEL		A304	1	EA	\$3.85	\$3.85	\$0.65	\$0.65	\$0.96	\$0.96
95	BOLT, STN STEEL 1/2"X2 1/2" ^ STAINLESS STEEL		A304	1	EA	\$3.95	\$3.95	\$0.60	\$0.60	\$1.02	\$1.02
96	HEX NUT, STAINLESS STEEL 1/2" ^ STAINLESS STEEL			1	EA	\$0.65	\$0.65	\$0.25	\$0.25	\$0.27	\$0.27
97	WASHER-FLAT 1/2" BOLT SS ^ STAINLESS STEEL			1	EA	\$0.25	\$0.25	\$0.15	\$0.15	\$0.13	\$0.13
98	BOLT, STN STEEL 1/2"X 2 3/4" ^ STAINLESS STEEL		A304	1	EA	\$4.00	\$4.00	\$0.80	\$0.80	\$1.13	\$1.13
99	BOLT, STN STEEL 1/2"X 3" ^ STAINLESS STEEL		A304	1	EA	\$4.00	\$4.00	\$0.90	\$0.90	\$1.17	\$1.17
100	BOLT, STN STEEL 1/2" X 3 1/4" ^ STAINLESS STEEL		A304	1	EA	\$4.30	\$4.30	\$0.90	\$0.90	\$1.43	\$1.43
101	WASHER-BLVL 1-3/16" 1/2" H SS ^ STAINLESS STEEL			1	EA	\$1.85	\$1.85	\$1.60	\$1.60	\$1.17	\$1.17
102	THIMBLE, CLEVIS	MACLEAN	FSA-88A-4	1	EA	\$48.95	\$48.95	\$21.90	\$21.90	\$21.13	\$21.13
103	LOCKNUT, SQUARE, 3/4"	HUGHES /CHANCE	HUGHES MF70/CHANCE 3513	1	EA	\$1.00	\$1.00	\$0.42	\$0.42	\$0.53	\$0.53
104	LOCKNUT HEX MF FOR 5/8" GALV	HUGHES	MFH60	1	EA	\$1.08	\$1.08	\$1.03	\$1.03	\$0.97	\$0.97
105	SECTION D- HUBBELL OR OHIO BRASS BRAND PRODUCTS										
106	Deadend-compression 3/8" EHS steel, vertical STL Eye, w/ bolted jumper	Hubbell or Ohio	861225J	1	EA	\$237.38	\$237.38	\$255.40	\$255.40	\$782.80	\$782.80
107	Deadend-compression, 795 ACSR 26/7, DBL 4H pad, STL Eye, w/ term, SS hardware	Hubbell or Ohio	DEDA3309SS	1	EA	\$346.05	\$346.05	\$368.20	\$368.20	\$1,835.48	\$1,835.48
108	Deadend-compression, 795 ACSR 26/7, SGL 4H pad, STL Eye, w/ term, SS hardware	Hubbell or Ohio	SEDA3309SS	1	EA	\$267.15	\$267.15	\$300.30	\$300.30	\$1,380.65	\$1,380.65
109	Deadend-compression, 959.6 ACSS/TW/HS hi-temp, SGL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell	SEDA1016STWSS	1	EA	\$262.00	\$262.00	\$294.20	\$294.20	\$1,589.25	\$1,589.25
110	Terminal pad, compression, jumper, 959.6 ACSS/TW/HS Suwanee, 15 deg, w/ SS hardware, hi-temp	Hubbell or OHIO	30126STWSS	1	EA	\$156.60	\$156.60	\$170.40	\$170.40	\$355.91	\$355.91
111	Deadend-compression, 959.6 ACSS/TW/HS hi-temp, DBL 4H4" pad, STL Eye, w/ 2 term pads SS hardware	Hubbell or OHIO	DEDA1016STWSS	1	EA	\$410.55	\$410.55	\$441.80	\$441.80	\$2,017.20	\$2,017.20
112	Terminal pad, compression, jumper, 959.6 ACSS/TW/HS Suwanee, straight, w/ SS hardware, hi-temp	Hubbell or OHIO	33126STWSS	1	EA	\$160.24	\$160.24	\$174.30	\$174.30	\$353.76	\$353.76
113	Tee-tap-compression, open run, 4H4" pad, for 959.6 ACSS/TW/HS, 22.3" lg	Hubbell or OHIO	ORT2113DSTW	1	EA	\$289.00	\$289.00	\$304.80	\$304.80	\$584.95	\$584.95
114	Sleeve, full tension, compression 3/8 EHS steel 1-pc 9.9" lg	Hubbell or OHIO	811425	1	EA	\$116.00	\$116.00	\$125.20	\$125.20	\$241.94	\$241.94
115	Sleeve, full tension, compression 795 ACSR 26/7 str Drake 2-pc 30.9" lg	Hubbell or OHIO	TJA3309	1	EA	\$322.00	\$322.00	\$373.60	\$373.60	\$845.16	\$845.16
116	Sleeve, full tension, compression 959.6 ACSS/TW/HS 22/7 str hi-temp	Hubbell or OHIO	TJA1016STW	1	EA	\$513.00	\$513.00	\$540.90	\$540.90	\$1,069.89	\$1,069.89
117	Electrical joint compound, hi-temp (16 oz tube) (ships in carton of 10)	Hubbell or OHIO	HTJC16	1	EA	\$29.85	\$29.85	\$34.30	\$34.30	\$101.08	\$101.08
118	Terminal Pad, Compression, jumper, 795 ACSR 26/7 Drake, 15 deg	Hubbell or OHIO	30117SS	1	EA	\$172.23	\$172.23	\$174.40	\$174.40	\$340.86	\$340.86
119	Deadend-compression, 1926.9 ACSS/TW/HS hi-temp, DBL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell or OHIO	DEDA3413STWSS	1	EA	\$1,635.00	\$1,635.00	\$1.00	\$1.00	\$2,843.01	\$2,843.01
120	Deadend-compression, 465.4 AAAC, SGI, 4H4" pad, STL Eye, w/term pad SS hardware	Hubbell or OHIO	AB090909	1	EA	\$334.48	\$334.48	\$1.00	\$1.00	\$692.47	\$692.47
121	Terminal Pad, Compression, jumper, 795 ACSR 26/7 Drake, Straight	Hubbell or OHIO	33117SS	1	EA	\$129.50	\$129.50	\$139.40	\$139.40	\$270.97	\$270.97
122	Deadend-compression, 1926.9 ACSS/TW/HS hi-temp, SGL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell or OHIO	SEDA3413STWSS	1	EA	\$890.00	\$890.00	\$1.00	\$1.00	\$733.33	\$733.33
Total:						\$11,886.37		\$12,756.36		\$25,300.94	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TECHLINE, INC., FOR THE PURCHASE OF TRANSMISSION HARDWARE SUPPLIES TO BE STOCKED IN THE CITY OF DENTON WAREHOUSE; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (IFB 8872 – AWARDED TO TECHLINE, INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$1,500,000.00).

WHEREAS, the City 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 bids are the lowest responsible bids for the materials, equipment, supplies, or services as shown in the “Bid Proposals” submitted therefore; 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 following competitive bids for the materials, equipment, supplies, or services as described in the “Bid Invitations”, “Bid Proposals”, or plans and specifications on file in the Office of the City’s Purchasing Agent filed according to the bid number assigned hereto, are hereby accepted and approved as being the lowest responsible bids:

<u>BID NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8872	Techline, Inc.	\$1,500,000.00

SECTION 2. That by the acceptance and approval of the above competitive bids the City accepts the offer of the persons submitting the bids 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 Bid Invitations, Bid Proposals, and related documents.

SECTION 3. Should the City and the winning bidder(s) wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the bids, the City

Manager, or their designated representative, is hereby authorized to execute a 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 Bid Proposal and related documents, and to extend that contract as determined to be advantageous to the City of Denton.

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 _____ 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

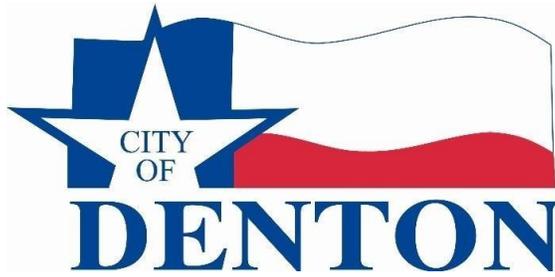
ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Leah Bush*

Marcella Lunn



DocuSign City Council Transmittal Coversheet

IFB	8872
File Name	Electric Transmission Hardware
Purchasing Contact	Ginny Brummett
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND TECHLINE, INC.
(Contract #8872)**

THIS CONTRACT is made and entered into this date _____, by and between Techline, Inc. a Texas corporation, whose address 5401 Martin St., Ft. Worth, TX 76119, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City,” to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City’s IFB# 8872 Electric Transmission Hardware, 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’s IFB 8872 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) 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” 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.

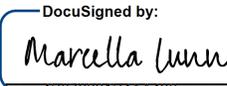
CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

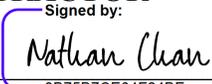
ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____
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CONTRACTOR

Signed by: 
BY: _____
AUTHORIZED SIGNATURE

Printed Name: Nathan Chan

Title: Senior Project Manager

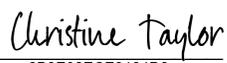
817-561-9900
PHONE NUMBER

Nchan@techline-inc.com
EMAIL ADDRESS

TBD

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

DocuSigned by:
 _____
SIGNATURE Christine Taylor
PRINTED NAME

Assistant City Manager
TITLE

DEPARTMENT

Exhibit A

Special Terms and Conditions

1. 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.

2. Product Changes During Contract Term

The Contractor shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to purchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the contractor's expense. Products that have been installed will be replaced at the contractor's expense.

3. Authorized Distributor

The Contractor shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton and make available the manufacturer's representative as needed by the City.

4. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Contractor 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 Contractor'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.

5. Price Escalation and De-escalation

On Contractor'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 Contractor should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

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

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

6. Total Contract Amount

The contract total shall not exceed \$1,500,000. Pricing shall be per Exhibit E attached.

7. Delivery Lead Time

Product or services shall be delivered to the City per the days/weeks noted in Exhibit E after receipt of the order.

8. 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. Liquidated damage charges shall not exceed 3% of the annual total contract amount.

Exhibit B
City of Denton's IFB# 8872 File

On File at the Office of the Purchasing Agent

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

Contract 8872

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
Contract 8872

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 (15th) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have Contract 8872

electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the Contract 8872

U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. DEFAULT:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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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 Contract 8872

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 Contract 8872

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

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.

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

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.

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/](https://www.ethics.state.tx.us/filinginfo/1295/)
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line.
(EX: Contract 1234 – Form 1295)

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

Exhibit E
8872 Electric Transmission Hardware

					Techline, Inc.
Line #	Description	Mfgr	Mfgno	UOM	Unit
1	SECTION A HUBBELL BRAND PRODUCTS				
2	JUMPER CLAMP, POST INSULATOR, AL, DBL 1.0 1.4"D, FOR 2 HOLE BLADE, 18" SPACING	Hubbell	2717243001	EA	\$420.42
3	JUMPER CLAMP, POST INSULATOR, AL, SGL 1.0 1.4"D, FOR 2 HOLE BLADE	Hubbell	976423002	EA	\$283.30
4	CLAMP CABLE TO INSULATOR SUPPORT, 0.522" 1.632" DIA, 11/16" HOLES ON 5" BC W/ MOUNTING HARDWARE	Hubbell	ASR2005	EA	\$148.79
5	DAMPER STOCKBRIDGE VIBRATION, 959.6 ACSS/TW/HS BARE, .859 1.130"D CLAMP	Hubbell	60710-12	EA	\$112.50
6	ANCHOR SHACKLE 7/8"WD, 3/4" PIN, 60K, GALV BNC	Hubbell	AS50BNK	EA	\$19.62
7	ANCHOR SHACKLE 7/8"WD, 5/8" PIN, 30K, GALV BNC	Hubbell	AS25LBNK	EA	\$9.59
8	CLEVIS EYE, 7/8" WIDE CLEVIS, 1 3/4" WIDE EYE, 5/8"D PIN, 11/16"D HOLE, BNC	Hubbell	CA16BNK	EA	\$50.80
9	CLEVIS SOCKET 7/8" WIDE 5/8"D PIN 30K BNC	Hubbell	SC30-BNK	EA	\$51.48
10	LINK CHAIN EYE 3/4" 60K 1"X3 1/2" OPENING	Hubbell	LK60	EA	\$22.50
11	SOCKET EYE 1" WIDE EYE, 11/16"D HOLE 30K	Hubbell	SA10	EA	\$27.90
12	SOCKET EYE 1" WIDE EYE, 13/16"D HOLE 30K	Hubbell	SA1013	EA	\$26.87
13	SOCKET EYE 1 3/4" WIDE EYE, 11/16" HOLE 30K	Hubbell	SA16	EA	\$38.30
14	Y CLEVIS BALL HOT LINE, 9 5/16" LONG, 3/4"D PIN, 30K	Hubbell	HYBC30	EA	\$72.58
15	Y CLEVIS BALL, 3/4"D PIN, 30K	Hubbell	YBC30	EA	\$10.54
16	Y CLEVIS EYE, 90 DEG, 1" WIDE EYE, 3/4" BOLT, 30K GALV	Hubbell	YCS1090	EA	\$41.95
17	Y CLEVIS SOCKET, 3/4"D PIN, 30K	Hubbell	SYC30	EA	\$23.72
18	YOKE PLATE, 3 POINT, 3/4" THK, 18"X5", (1) 1 1/8" (2) 1 1/4" HOLES, 50K	Hubbell	YPD5018549-1	EA	\$358.00
19	YOKE PLATE, 4 POINT, 5/8" THK, 18"X6", (2) 11/16" (2) 15/16" HOLES, 30K	Hubbell	976113002	EA	\$606.18
20	SUSPENSION CLAMP, AL 0.70 1.18" 25K W/SOCKET EYE (SA 10) BNC	Hubbell	HAS118SBNK	EA	\$151.66
21	CLEVIS SOCKET	Hubbell	SC501	EA	\$64.00
22	Y CLEVIS 90 DEGREE	Hubbell	YCC3090	EA	\$65.00
23	YOKE PLATE CRESCENT	Hubbell	YPC509378	EA	\$695.00
24	SUSPENSION CLAMP	Hubbell	MS60SBNK	EA	\$114.46
25	SECTION B PREFORMED BRAND PRODUCTS				
26	DAMPER SPIRAL VIBRATION, .564 .760"D, 66" LONG (OPGW)	Preformed	5050106	EA	\$15.32
27	ARMOR GRIP SUSPENSION, 0.769" 0.795" DIA, CAIRO, AAAC	Preformed	AGS-5115	EA	\$76.02
28	ARMOR GRIP SUSPENSION, 1.091" 1.118" DIA, 82" LG RODS, 200C RATING	Preformed	AGS-5130	EA	\$124.50
29	ARMOR GRIP SUSPENSION	Preformed	AGS-5831	EA	\$250.00
30	SPACER CUSHION GRIP, 2 BUNDLE 18" SPACING, 1.107" 1.146"D, 200C RATING	Preformed	CGTS-0112HT	EA	\$70.18
31	DAMPER SPIRAL VIBRATION, .327 .461"D, 51" LONG (EHS)	Preformed	5050104	EA	\$5.80
32	CLEVIS EYE	Preformed	CE-5105	EA	\$11.08
33	YOKE PLATE 3 PT 26" SPACING	Preformed	YP-5910	EA	\$140.40
34	ARMOR ROD	Preformed	AR1130	EA	\$7.24
35	Y CLEVIS EYE, 0.751 1.005", 11/16" HOLE, 20K	Preformed	YC-5207	EA	\$14.48
36	Y-CLEVIS-CLEVIS-90 + ^	Preformed	YCC3090	EA	\$38.18
37	Y-CLEVIS-EYE	PREFORMED	YC-5209	EA	\$14.59
38	SECTION C HARDWARE - MISC BRAND PRODUCTS				
39	WIRE 7#7 CO WELD, 7STR 0.433"	AFL	CCS07074D	FT	\$4.60
40	WIRE FLEX 2/0 AWG 1274/30 STR	CU WELDING	CHW25320101	FT	\$4.05
41	CLAMP PG, AL BOLTED, .398^	BLACKBURN	PAC7	EA	\$12.30
42	CONNECTOR, COMP, CU 1/0SOL 2/0	BURNDY	YC26C26	EA	\$3.40
43	CLAMP GR, 2/0 250 CA, 1 1/8"	BURNDY	GAR1529	EA	\$23.70
44	CLAMP GR 2/0 250 CA, TO 1 3/8"	BURNDY	GAR1629	EA	\$29.80
45	CLAMP GR, 2/0 250 CA TO 2"	BURNDY	GAR1829	EA	\$40.15
46	LUG COMP 1HL 2/0 AWG 1/2" BOLT	TIN PLTD, BUR	YA26L6-BOX	EA	\$4.92
47	LUG COMP 2 HL 2/0 AWG 1/2" BOLT	TIN PLTD BURN	YA262N / N125	EA	\$6.78
48	JUMPER CLAMP, POST INSULATOR, AL, DBL 1.108 1.196"D W/ 5" BC, 18" SPACING	SEFCOR	ASCAHV-35-5	EA	\$125.00
49	YOKE PLATE, 3 POINT, 5/8" THK, 18"X6 1/4", (1) 1" (2) 13/16" HOLES, 40K	HUGHES	AS2585Z	EA	\$146.00
50	BANDING ADAPTER POST INSULATOR, 5 1/2"X14", (2) 5/8"X6"LG BOLTS W/ NUT, 12" SPACING, FOR 1 1/4" BANDING	ALUMA-FORM	D-4080-BS2-6"BOLT	EA	\$138.00
51	WEIGHT 50LBS, 1.108" DIA 795 DRAKE OR EQUIV, 138KV	N H INDUSTRIE	501108	EA	\$610.00
52	ANCHOR PLATE FOR 3/4" ANCHOR ROD, GALVANIZED	MACLEAN/ Hubbell# X20	J3520	EA	\$69.35
53	ROD, ANCHOR, TWIN EYE, 3/4" X 8" 0"	HUBBELL	5358	EA	\$40.25
54	BOLT MACH 1/2"X4 1/2" HEX HD	GALV, HUGHES	HB54-1/2-1-1/4	EA	\$2.85
55	BOLT MACH 5/8"X3 GALV HEX HD w/Nut	HUGHH	HB63-1-1/2	EA	\$3.70
56	BOLT-MACH 1/2" X 1" -13 SS ^ w/Nut	HEX-HD		EA	\$2.50
57	BOLT-MACH 1/2" X 3" -13 SS ^ w/Nut	HEX-HD		EA	\$5.50
58	BOLT, HEX GA 3/4" X 4" ^	ASTM A307	F#1191964	EA	\$6.50
59	LOCKNUT 1"-8 YZ 8^		F# 37192	EA	\$0.70
60	BOLT, HEX 1-8X3-1/2" A307 AZ		F#11467	EA	\$8.85
61	NUT, HEX 1"8 FHN YZ 8		F# 36420	EA	\$2.30
62	BOLT, MACH, 3/4" X 3" GALV SQ w/Nut		HD W/ NUT HUB73-1-3/4	EA	\$7.35
63	WASHER RND 2", 13/16"H, 1/4"T		GALVANIZED H#RW27	EA	\$1.48
64	WASHER SPLIT LCK FOR 3/4" BLT	HUGHES	SLW70 / CHANCE 4037	EA	\$0.27

65	WASHER ROUND 1 3/8"D X 9/16"H GALV	HUBBEL	PS6803	EA	\$0.25
66	WASHER RND 2"DX11/16"HX1/4"T GALV	HUGHES	RW260	EA	\$1.48
67	WASHER SPLIT LOCK FOR 5/8" GALV	HUGHES	SLW60	EA	\$0.20
68	BOLT, 3/4" x 1 1/4" ^ GALVANIZED STEEL		A307	EA	\$5.50
69	WASHER FLAT 3/4" GALVANIZED STEEL			EA	\$0.30
70	WASHER LOCK 1/2" BOLT SS STAINLESS STEEL			EA	\$0.25
71	WASHER, LOCK 3/4" HOLE ^ GALVANIZED STEEL			EA	\$0.30
72	WASHER, FLAT USS 1" YZ		F# 33866	EA	\$0.50
73	BOLT, 3/4" x 1 1/2" ^ GALVANIZED STEEL			EA	\$5.85
74	NUT, HEX 3/4" GALVANIZED STEEL			EA	\$0.50
75	WASHER-RND 2"DX15/16"HX1/4"T ^ GALVANIZED STEEL	HUGHES	RW280	EA	\$1.48
76	BOLT, GV STEEL 1/2" x 2" ^ GALVANIZED		A307	EA	\$4.50
77	BOLT, GV STEEL 1/2" x 2 1/2" ^ GALVANIZED		A307	EA	\$4.65
78	BOLT, GV STEEL 5/8" x 1 1/2" ^ GALVANIZED		A307	EA	\$5.00
79	BOLT, GV STEEL 5/8" x 2" ^ GALVANIZED		A307	EA	\$5.30
80	BOLT, GV STEEL 5/8" x 2 3/4" ^ GALVANIZED		A307	EA	\$5.50
81	HEX NUT, GV STEEL 1/2" ^ GALVANIZED		A307	EA	\$0.65
82	WASHER-FLAT, GV STEEL 1/2" ^ GALVANIZED		A307	EA	\$0.25
83	WASHER-LOCK, GV STEEL 1/2" ^ GALVANIZED		A307	EA	\$0.25
84	BOLT, GV STEEL 3/8" x 1" ^ GALVANIZED		A307	EA	\$5.00
85	HEX NUT, GV STEEL 3/8" ^ GALVANIZED		A307	EA	\$0.45
86	FLAT WASHER, GV STEEL 3/8" ^ GALVANIZED S			EA	\$0.20
87	LOCK WASHER, GV STEEL 3/8" ^ GALVANIZED S			EA	\$0.20
88	BOLT, GV STEEL 5/8" x 1" ^ GALVANIZED		A307	EA	\$3.50
89	HEX NUT, GV STEEL 5/8" ^ GALVANIZED S			EA	\$0.50
90	FLAT WASHER, GV STEEL 5/8" ^ GALVANIZED S			EA	\$0.25
91	LOCK WASHER, GV STEEL 5/8" ^ GALVANIZED S			EA	\$0.25
92	BEVEL WASHER, GV STEEL 5/8" ^ GALVANIZED S			EA	\$1.65
93	BOLT, STN STEEL 1/2"X2" ^ STAINLESS STEEL		A304	EA	\$3.50
94	BOLT, STN STEEL 1/2"X2 1/4" ^ STAINLESS STEEL		A304	EA	\$3.85
95	BOLT, STN STEEL 1/2"X2 1/2" ^ STAINLESS STEEL		A304	EA	\$3.95
96	HEX NUT, STAINLESS STEEL 1/2" ^ STAINLESS STEEL			EA	\$0.65
97	WASHER-FLAT 1/2" BOLT SS ^ STAINLESS STEEL			EA	\$0.25
98	BOLT, STN STEEL 1/2" X 2 3/4" ^ STAINLESS STEEL		A304	EA	\$4.00
99	BOLT, STN STEEL 1/2" X 3" ^ STAINLESS STEEL		A304	EA	\$4.00
100	BOLT, STN STEEL 1/2" X 3 1/4" ^ STAINLESS STEEL		A304	EA	\$4.30
101	WASHER-BLVL 1-3/16" 1/2" H SS ^ STAINLESS STEEL			EA	\$1.85
102	THIMBLE, CLEVIS	MACLEAN	FSA-88A-4	EA	\$48.95
103	LOCKNUT, SQUARE, 3/4"	HUGHES / CHANCE	HUGHES MF70 / CHANC	EA	\$1.00
104	LOCKNUT HEX MF FOR 5/8" GALV	HUGHES	MFH60	EA	\$1.08
105	SECTION D HUBBELL OR OHIO BRASS BRAND PRODUCTS				
106	Deadend compression 3/8" EHS steel, vertical STL Eye, w/ bolted jumper	Hubbell or Ohio	861225J	EA	\$237.38
107	Deadend compression, 795 ACSR 26/7, DBL 4H pad, STL Eye, w/ term, SS hardware	Hubbell or Ohio	DEDA3309SS	EA	\$346.05
108	Deadend compression, 795 ACSR 26/7, SGL 4H pad, STL Eye, w/ term, SS hardware	Hubbell or Ohio	SEDA3309SS	EA	\$267.15
109	Deadend compression, 959.6 ACSS/TW/HS hi temp, SGL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell	SEDA1016STWSS	EA	\$262.00
110	Terminal pad, compression, jumper, 959.6 ACSS/TW/HS Suwanee, 15 deg, w/ SS hardware, hi temp	Hubbell or OHIO	30126STWSS	EA	\$156.60
111	Deadend compression, 959.6 ACSS/TW/HS hi temp, DBL 4H4" pad, STL Eye, w/ 2 term pads SS hardware	Hubbell or OHIO	DEDA1016STWSS	EA	\$410.55
112	Terminal pad, compression, jumper, 959.6 ACSS/TW/HS Suwanee, straight, w/ SS hardware, hi temp	Hubbell or OHIO	33126STWSS	EA	\$160.24
113	Tee tap compression, open run, 4H4" pad, for 959.6 ACSS/TW/HS, 22.3" lg	Hubbell or OHIO	ORT2113DSTW	EA	\$289.00
114	Sleeve, full tension, compression 3/8 EHS steel 1 pc 9.9" lg	Hubbell or OHIO	811425	EA	\$116.00
115	Sleeve, full tension, compression 795 ACSR 26/7 str Drake 2 pc 30.9" lg	Hubbell or OHIO	TJA3309	EA	\$322.00
116	Sleeve, full tension, compression 959.6 ACSS/TW/HS 22/7 str hi temp	Hubbell or OHIO	TJA1016STW	EA	\$513.00
117	Electrical joint compound, hi temp (16 oz tube) (ships in carton of 10)	Hubbell or OHIO	HTJC16	EA	\$29.85
118	Terminal Pad, Compression, jumper, 795 ACSR 26/7 Drake, 15 deg	Hubbell or OHIO	30117SS	EA	\$172.23
119	Deadend compression, 1926.9 ACSS/TW/HS hi temp, DBL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell or OHIO	DEDA3413STWSS	EA	\$1,635.00
120	Deadend compression, 465.4 AAC, SGI, 4H4" pad, STL Eye, w/term pad SS hardware	Hubbell or OHIO	AB090909	EA	\$334.48
121	Terminal Pad, Compression, jumper, 795 ACSR 26/7 Drake, Straight	Hubbell or OHIO	33117SS	EA	\$129.50
122	Deadend compression, 1926.9 ACSS/TW/HS hi temp, SGL 4H4" pad, STL Eye, w/ term pad SS hardware	Hubbell or OHIO	SEDA3413STWSS	EA	\$890.00

EXHIBIT F-CIQ

CONFLICT OF INTEREST QUESTIONNAIRE

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).

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.

Techline, 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

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.

Not applicable

4 [X] I have no Conflict of Interest to disclose.

5 [Signature] Signature of vendor doing business with the governmental entity

[Signature] June 23rd, 2025 Date

Certificate Of Completion

Envelope Id: 0C65C701-4C43-4243-86F3-8AB97FAD14CD
 Subject: Please DocuSign: City Council Contract 8872 Electric Transmission Hardware
 Source Envelope:
 Document Pages: 32
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Ginny Brummett
 901B Texas Street
 Denton, TX 76209
 Ginny.Brummett@cityofdenton.com
 IP Address: 198.49.140.10

Record Tracking

Status: Original
 8/13/2025 9:03:09 AM

Holder: Ginny Brummett
 Ginny.Brummett@cityofdenton.com

Location: DocuSign

Signer Events

Ginny Brummett
 ginny.brummett@cityofdenton.com
 Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Signature

Completed
 Using IP Address: 198.49.140.10

Timestamp

Sent: 8/13/2025 9:20:24 AM
 Viewed: 8/13/2025 9:20:38 AM
 Signed: 8/13/2025 9:22:01 AM

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


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

Sent: 8/13/2025 9:22:03 AM
 Viewed: 8/13/2025 9:30:41 AM
 Signed: 8/13/2025 9:31:55 AM

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


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

Sent: 8/13/2025 9:31:58 AM
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 Signed: 8/13/2025 5:55:49 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Nathan Chan
 Nathan.Chan@Techline-Inc.com
 Senior Project Manager
 Techline, Inc.
 Security Level: Email, Account Authentication
 (None)


 Signature Adoption: Pre-selected Style
 Using IP Address: 12.104.110.8
 Signed using mobile

Sent: 8/13/2025 5:55:51 PM
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 Signed: 8/13/2025 6:27:32 PM

Electronic Record and Signature Disclosure:
 Accepted: 8/13/2025 6:26:35 PM
 ID: a84a159d-3f3f-4f76-b6c4-b0939a2538ed

Signer Events

Christine Taylor
christine.taylor@cityofdenton.com
Assistant City Manager
City of Denton
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:
Christine Taylor
2B3E02ECE3184D8...
Signature Adoption: Pre-selected Style
Using IP Address: 2600:387:15:1a1a::b
Signed using mobile

Timestamp

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Viewed: 8/13/2025 7:08:43 PM
Signed: 8/13/2025 7:09:02 PM

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

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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:
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In Person Signer Events

Signature

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Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

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

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Electronic Record and Signature Disclosure:
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Gretna Jones
gretna.jones@cityofdenton.com
Legal Secretary
City of Denton
Security Level: Email, Account Authentication (None)

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Sent: 8/13/2025 7:09:04 PM
Viewed: 8/14/2025 10:48:57 AM

Electronic Record and Signature Disclosure:

Carbon Copy Events	Status	Timestamp
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City Secretary Office

citysecretary@cityofdenton.com

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

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Keith Kading

Keith.Kading@cityofdenton.com

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 8/5/2025 12:01:25 PM

ID: df5a55be-6e99-4251-8004-1ac352c3e369

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent

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8/13/2025 9:20:24 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

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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.

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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..

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 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:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

Legislation Text

File #: ID 25-1541, **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 Doggett Freightliner of South Texas, LLC, through the Buy Board Cooperative Purchasing Network Contract Nos. 687-22 and 723-23, for purchases, maintenance, and repairs of medium-duty and heavy-duty trucks for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8873 - awarded to Doggett Freightliner of South Texas, 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 \$4,303,585.00).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 Doggett Freightliner of South Texas, LLC, through the Buy Board Cooperative Purchasing Network Contract Nos. 687-22 and 723-23, for purchases, maintenance, and repairs of medium-duty and heavy-duty trucks for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8873 – awarded to Doggett Freightliner of South Texas, 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 \$4,303,585.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The proposed contract with Doggett Freightliner of South Texas, LLC will be utilized by the Fleet Services Department for the maintenance, repair, and acquisition of medium-duty and heavy-duty equipment. These assets will include specialty fire apparatus, water trucks, dump trucks, and refuse trucks utilized by multiple departments to maintain City infrastructure. Reliable equipment is essential for citizen safety and the uninterrupted operation of city roads, utility lines, and waste removal. Any downtime from vehicle malfunctions or delays in acquiring new equipment can disrupt these services. Doggett Freightliner of South Texas, LLC will assist in continued timely repairs and maintenance, allowing for minimized vehicle downtime.

Additionally, the proposed contract streamlines the procurement of vehicles and parts, allowing the City to address both current needs and future growth. The contract supports scalable operations, enabling the City to adapt to evolving requirements while maintaining high service standards, ensuring public services remain reliable and efficient. Fleet Services strategizes asset management, including planning for new acquisitions and asset replacement, integrated within the City's annual budget process.

The contract value is based on historical spending trends and accommodates future service estimates and vehicle acquisitions. New fleet additions required by departments to meet evolving needs are approved through the Capital Improvement Budget.

Estimated Contract Expenses

Category	FY 25/26	FY 26/27	FY 27/28	FY 28/29	FY 29/30	Total
Asset Additions	\$368,500	\$379,555	\$390,942	\$402,670	\$414,750	\$1,956,417
Asset Replacements	295,000	303,850	312,966	322,354	332,025	1,566,195
Repair Services	108,500	111,755	115,108	118,560	122,117	576,050
Sub Total	\$772,000	\$795,160	\$819,016	\$843,584	\$868,892	4,098,652
Contingency 5%	38,600	39,758	40,951	42,179	43,445	204,933
Total	\$810,600	\$834,918	\$859,967	\$885,763	\$912,337	\$4,303,585

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

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

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

RECOMMENDATION

Award a contract with Doggett Freightliner of South Texas, LLC, for purchases, maintenance, and repairs of medium-duty and heavy-duty trucks for the Fleet Services Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$4,303,585.

PRINCIPAL PLACE OF BUSINESS

Doggett Freightliner of South Texas, LLC
Converse, 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. Buy Board contracts 687-22 and 723-23 expire on November 30, 2025.

FISCAL INFORMATION

These products and services will be funded through Capital Fund accounts. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$4,303,585. The City will only pay for services rendered and is not obligated to pay the total contract amount unless needed.

EXHIBITS

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

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

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

Legal point of contact: Marcella Lunn at 940-349-8333.



12007 Research Boulevard • Austin, Texas 78759-2439 • PH: 800-695-2919 • buyboard.com

PROPOSER'S ACCEPTANCE AND AGREEMENT

Proposal Invitation Name: Trailers, Optional Equipment, Parts and Maintenance Repair Service

Proposal Due Date/Opening Date and Time: July 14, 2022, at 4:00 PM

Proposal Invitation Number: 687-22

Location of Proposal Opening:
Texas Association of School Boards, Inc.
BuyBoard Department
12007 Research Blvd.
Austin, TX 78759

Contract Term: December 1, 2022, through November 30, 2023, with two possible one-year renewals.

Anticipated Cooperative Board Meeting Date: October 2022

By signature below, the undersigned acknowledges and agrees that you are authorized to submit this Proposal, including making all acknowledgements, consents, and certifications herein, on behalf of Proposer and, to the best of your knowledge, the information provided is true, accurate, and complete.

Doggett Freightliner of South Texas, LLC
Name of Proposing Company

7/11/2022
Date

8700 IH10 East
Street Address


Signature of Authorized Company Official

Converse, TX 78109
City, State, Zip

Carlton Hempel
Printed Name of Authorized Company Official

512 389 0000
Telephone Number of Authorized Company Official

General Manager
Position or Title of Authorized Company Official

512 389 2663
Fax Number of Authorized Company Official

46-3732669
Federal ID Number

2 Section I: Trailers

Discount (%) off catalog/pricelist for **Base Model Tag Trailer** (18,000 to 40,000 lb. load capacity rated at 60 MPH, DOT

approved lights and standard manufacturer's equipment). **Catalog/Pricelist MUST be included or proposal will not be considered.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

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

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

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: The majority of the optional equipment and upgrade options will be selected at time of Cooperative

member order. A DETAILED AND COMPLETE LIST OF ALL OPTIONAL EQUIPMENT AND UPGRADE OPTIONS MUST BE

SUBMITTED WITH PROPOSAL FOR PROPOSAL TO BE CONSIDERED.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

4 Section I: Trailers

Discount (%) off catalog/pricelist for **Base Model Hydraulic Detachable Gooseneck Trailer** (70,000 to 100,000 lb.

load capacity concentrated in any 16' rated at 60 MPH, DOT approved lights and standard manufacturer's equipment). **Catalog/Pricelist MUST be included or proposal will not be considered.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

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

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: The majority of the optional equipment and upgrade options will be selected at time of Cooperative

member order. A DETAILED AND COMPLETE LIST OF ALL OPTIONAL EQUIPMENT AND UPGRADE OPTIONS MUST BE

SUBMITTED WITH PROPOSAL FOR PROPOSAL TO BE CONSIDERED.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Section III: Repair Parts and Supplies

Discount (%) off catalog/pricelist for **Repair Parts and Supplies for All Types of Trailers**. **Catalog/Pricelist MUST be included or proposal will not be considered.**

Total:

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

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

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

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: The majority of the optional equipment and upgrade options will be selected at time of Cooperative

member order. A DETAILED AND COMPLETE LIST OF ALL OPTIONAL EQUIPMENT AND UPGRADE OPTIONS MUST BE

SUBMITTED WITH PROPOSAL FOR PROPOSAL TO BE CONSIDERED.

Item Attributes**1. State Name of Catalog/Pricelist Proposed with Discount Percentage**

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

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Section IV: Installation and Repair Service

Hourly Labor Rate for Installation/Repair Service of Trailers-Not to Exceed hourly labor rate for Installation/Repair Service of Equipment and Products.

Quantity: 1 UOM: Hourly Labor Rate Price: Total:

Response Total: \$186.00



PROPOSER'S ACCEPTANCE AND AGREEMENT

Proposal Invitation Name Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Service	Proposal Due Date/Opening Date and Time August 24, 2023, at 4:00 PM
Proposal Invitation Number 723-23	Location of Proposal Opening Texas Association of School Boards, Inc. BuyBoard Department 12007 Research Blvd. Austin, TX 78759
Contract Term December 1, 2023, through November 30, 2024, with two possible one-year renewals.	Anticipated Cooperative Board Meeting Date October 2023

By signature below, the undersigned acknowledges and agrees that you are authorized to submit this Proposal, including making all acknowledgements, consents, and certifications herein, on behalf of Proposer and, to the best of your knowledge, the information provided is true, accurate, and complete.

Doggett Freightliner of South Texas, LLC

Name of Proposing Company

8/21/2023

Date

Signature of Authorized Company Official

8700 IH 10 East

Street Address

Converse, TX 78121

City, State, Zip

Mike Crockett

Printed Name of Authorized Company Official

210-*277-4373

Telephone Number of Authorized Company Official

Government Sales

Position or Title of Authorized Company Official

210-661-4121

Fax Number of Authorized Company Official

46-3732669

Federal ID Number

6 Section 2: Autocar Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Options**. Manufacturer specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

No response

7 Section 2: Autocar Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Third Party Options (not OEM) and Unpublished Options and Equipment**. Third Party (not OEM) specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Doggett Price list

8 Section 2: Autocar Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Parts.**

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

9 Section 2: Autocar Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Extended Service Maintenance Agreements.**

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

1 0 Section 2: Autocar Model Vehicles OPTIONAL EQUIPMENT and PARTS
Discount (%) off all **Floor Plan Insurance and Lot Insurance** (dealer inventory vehicles and upfitting vehicles).
Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

1 1 Section 3: Autocar Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service.

Quantity: 1 UOM: Hourly Labor Rate Price: Total:

1 2 Section 3: Autocar Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed hourly labor rate for Paint and Body Repair.

Quantity: 1 UOM: Hourly Labor Rate Price: Total:

1 3 Section 3: Autocar Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed per mile delivery fee for Medium and Heavy-Duty Trucks.

Quantity: 1 UOM: Per Mile Delivery Fee Price: Total:

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Section 4: Battle Motors Vehicles

Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 4x2 – Diesel** - Heavy Duty, Low Narrow Tilt Cab, Class 6, 7, and 8, GVWR 26,000 - 66,000 lbs., Cummins B6.7, 200-380 HP engine, Allison 3000 RDS transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 4: Battle Motors Vehicles

Base Model Price for **Battle Motors Low Entry Tilt 2 (LET2) 4x2 – Diesel** - Heavy Duty, Low Entry Tilt Cab, Class 7 and 8, GVWR 46,000 - 72,000 lbs., Cummins L9, 300 - 430 HP engine, Allison 3000 RDS transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 4: Battle Motors Vehicles

Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 4x2 – Electric - Heavy Duty, Low Narrow Tilt Cab, Class 6 - 8, GVWR 26,000 - 54,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Direct Drive transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.**

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 4: Battle Motors Vehicles

_Base Model Price for **Battle Motors Low Entry Tilt II (LET2) 4x2 – Electric** - Heavy Duty, Low Entry Tilt Cab, Class 6-8, GVWR 33,000 - 72,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Two Speed Powershift transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Options**. Manufacturer specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

2
1

Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Third Party Options (not OEM) and Unpublished Options and Equipment**. Third Party (not OEM) specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

2 Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS

2 Discount (%) off all **Original Equipment Manufacturer (OEM) Parts.**

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

2 Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS

3 Discount (%) off all **Extended Service Maintenance Agreements.**

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

2 Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS

4 Discount (%) off all **Floor Plan Insurance and Lot Insurance** (dealer inventory vehicles and upfitting vehicles).

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

2 Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

5 **Not to Exceed** hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service.

Quantity: UOM: Price: Total:

2 Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

6 **Not to Exceed** hourly labor rate for Paint and Body Repair.

Quantity: UOM: Price: Total:

2 Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

7 **Not to Exceed** per mile delivery fee for Medium and Heavy-Duty Trucks.

Quantity: UOM: Price: Total:

Alternate 1

Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

Not to Exceed per mile delivery fee for Medium and Heavy-Duty Trucks.

Quantity: UOM: Price: Total:

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model M2-106** - Medium Duty, Cab, Class 6 - 8; Cab and chassis, 66,000# GVW, Eaton 6 speed transmission, 200 HP, front axle 6,000lbs, rear axle 13,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model 108SD** - Heavy Duty, Cab, Class 7/8, Cab and chassis, 3169,000# GVW, Eaton 9 speed transmission, 520 - 1250 HP, front axle 10,000lbs, rear axle 21,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model M2-112** - Heavy Duty, Cab, Class 7/8, and chassis, 52,000# GVW, Detroit DD13 260 - 525 HP at 1625 RPM, Eaton 10 speed transmission, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model M2-112 Natural Gas** - Heavy Duty, Cab, Class 7/8, and chassis, 66,000# GVW, Detroit DD13 250 - 320 HP at 1625 RPM, Eaton 10 speed transmission, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model Cascadia 125** - Heavy Duty, Class 8, Cab and chassis, 52,000# GVW, Detroit DD15 350 - 615 HP at 1625 RPM, Eaton FR-15210B 10 speed transmission, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model Natural Gas** - Heavy Duty, Class 8, Cab and chassis, 60,600# GVW, Detroit DD15 400 HP at 1625 RPM, Eaton FR-15210B 10 speed transmission, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model 114SD** - Heavy Duty, Class 7/8, Cab and chassis, 92,000# GVW, Detroit DD13 260 - 525 HP at 1625 RPM, Eaton FR15210B, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model 114SD Natural Gas** - Heavy Duty, Class 7/8, Cab and chassis, 62,000# GVW, Detroit DD13 260 - 400 HP at 1625 RPM, Eaton FR15210B, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model eCascadia** - Heavy Duty, Class 8, Cab and chassis, 82,000# GVW, Detroit DD15425 HP (317 kW), Eaton FR-15210B 10 speed transmission, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model eM2** - Medium Duty, Cab, Class 6/7, Typical Range 180 - 250 Miles, Cab and chassis, 26,000 - 33,000# GVW, Class 6 Continuous Horsepower, front axle 6,000lbs, rear axle 13,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 16: Freightliner Vehicles

Base Model Price for **Freightliner Model EconicSD** - Heavy Duty, Class 8, Cab and chassis, Detroit DDS HP 350, Allison Automatic 3000 series 6-speed, front axle 12,000lbs, rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 17: Freightliner Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Options**. Manufacturer specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

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Section 17: Freightliner Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Third Party Options (not OEM) and Unpublished Options and Equipment**. Third Party (not OEM) specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

8 **Section 17: Freightliner Model Vehicles OPTIONAL EQUIPMENT and PARTS**

6 Discount (%) off all **Original Equipment Manufacturer (OEM) Parts**.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

8 **Section 17: Freightliner Model Vehicles OPTIONAL EQUIPMENT and PARTS**

7 Discount (%) off all **Extended Service Maintenance Agreements**.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

88 Section 17: Freightliner Model Vehicles OPTIONAL EQUIPMENT and PARTS
 Discount (%) off all **Floor Plan Insurance and Lot Insurance** (dealer inventory vehicles and upfitting vehicles).
 Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

89 Section 18: Freightliner Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service.
 Quantity: 1 UOM: Hourly Labor Rate Price: Total:

90 Section 18: Freightliner Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed hourly labor rate for Paint and Body Repair.
 Quantity: 1 UOM: Hourly Labor Rate Price: Total:

91 Section 18: Freightliner Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service
Not to Exceed per mile delivery fee for Medium and Heavy-Duty Trucks.
 Quantity: 1 UOM: Per Mile Delivery Fee Price: Total:

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6 **Section 42: Volvo Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service**
Not to Exceed hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service.
 Quantity: 1 UOM: Hourly Labor Rate **No Bid**

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7 **Section 42: Volvo Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service**
Not to Exceed hourly labor rate for Paint and Body Repair.
 Quantity: 1 UOM: Hourly Labor Rate **No Bid**

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8 **Section 42: Volvo Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service**
Not to Exceed per mile delivery fee for Medium and Heavy-Duty Trucks.
 Quantity: 1 UOM: Per Mile Delivery Fee **No Bid**

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9 **Section 43: Western Star Vehicles**
 Base Model Price for **Western Star 47X** - Medium Duty, Engine Displacement 9L to 13L Horsepower/ Torque 260/860 to 525/1,850, complete with all manufacturer's standard equipment.

	Unit Price: <input style="width: 100%;" type="text" value="\$96,304.00"/>	Total: <input style="width: 100%;" type="text" value="\$96,304.00"/>
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Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 43: Western Star Vehicles

Base Model Price for **Western Star 49X** - Medium Duty, Engine Displacement 12L to 16L Horsepower/
Torque 350/1,350 to 605/2,050, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 43: Western Star Vehicles

Base Model Price for **Western Star 57X** - Heavy Duty, Engine Detroit DD13 Gen 5 370-525 HP, 1250-1850 lb.-ft, Transmission Detroit DT12 Direct and Overdrive AMT, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 44: Western Star Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Options**. Manufacturer specification sheets and upgrade options catalog/pricelist MUST be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Western Star Data book 5.20

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Section 44: Western Star Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Third Party Options (not OEM) and Unpublished Options and Equipment.** Third Party (not OEM) specification sheets and upgrade options catalog/pricelist **MUST** be included, or proposal will not be considered.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a **COMPLETE** catalog(s)/pricelist(s) **OF ALL OPTIONAL EQUIPMENT AND PARTS** with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Doggett Price List

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Section 44: Western Star Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Original Equipment Manufacturer (OEM) Parts.**

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a **COMPLETE** catalog(s)/pricelist(s) **OF ALL OPTIONAL EQUIPMENT AND PARTS** with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Doggett Price List

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Section 44: Western Star Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Extended Service Maintenance Agreements**.

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Doggett Price List ESC

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Section 44: Western Star Model Vehicles OPTIONAL EQUIPMENT and PARTS

Discount (%) off all **Floor Plan Insurance and Lot Insurance** (dealer inventory vehicles and upfitting vehicles).

Total:

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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

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

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

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

Doggett Floor Plan

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Section 45: Western Star Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

Not to Exceed hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service.

Quantity: 1 UOM: Hourly Labor Rate Price: Total:

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Section 45: Western Star Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

Not to Exceed hourly labor rate for Paint and Body Repair.

Quantity: 1 UOM: Hourly Labor Rate Price: Total:

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Section 45: Western Star Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service

Not to Exceed per mile delivery fee for Medium and Heavy-Duty Trucks.

Quantity: 1 UOM: Per Mile Delivery Fee Price: Total:

Section 1: Autocar Vehicles (Addendum No. 1)

Base Model Price for **Autocar ACTT 4x2** – Terminal tractor, Cabover style, Cab and chassis, Low Cab Forward (LCF), Cummins B6.7 200 HP with Allison 3000 RDS, 4 speed transmission, diesel engine, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Section 1: Autocar Vehicles (Addendum No. 1)

Base Model Price for **Autocar ACTT 6x4** – Terminal tractor, Cabover style, Cab and chassis, Low Cab Forward (LCF), Cummins B6.7 200 HP with Allison 3000 RDS, 4 speed transmission, diesel engine, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 4: Battle Motors Vehicles (Addendum No. 1)

Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 6x4 – Diesel** - Heavy Duty, Low Narrow Tilt Crew Cab, Bas 6 - 8, GVWR 46,000 - 72,000 lbs., Cummins L9, 300 - 430 HP engine, Allison 3500 RDS transmission, front axel 20,000lbs, tandem rear axle 40,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 4: Battle Motors Vehicles (Addendum No. 1)

Base Model Price for **Battle Motors Low Entry Tilt 2 (LET2) 6x4 – Diesel** - Heavy Duty, Low Entry Tilt Cab, Class 7 and 8, GVWR 46,000 - 72,000 lbs., Cummins L9, 300 - 430 HP engine, Allison 3000 RDS transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

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Section 4: Battle Motors Vehicles (Addendum No. 1)

Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 6x4 – Electric - Heavy Duty, Low Narrow Tilt Cab, Class 6 - 8, GVWR 26,000 - 54,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Direct Drive transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.**

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

2
4
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Section 4: Battle Motors Vehicles (Addendum No. 1)

Base Model Price for **Battle Motors Low Entry Tilt II (LET2) 6x4 – Electric** -Heavy Duty, Low Entry Tilt Cab, Class 6-8, GVWR 33,000 - 72,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Two Speed Powershift transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: Total:

Manufacturer:

Manufacturer #:

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH DOGGETT FREIGHTLINER OF SOUTH TEXAS, LLC, THROUGH THE BUY BOARD COOPERATIVE PURCHASING NETWORK CONTRACT NOS. 687-22 AND 723-23, FOR PURCHASES, MAINTENANCE, AND REPAIRS OF MEDIUM-DUTY AND HEAVY-DUTY TRUCKS FOR THE FLEET SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8873 – AWARDED TO DOGGETT FREIGHTLINER OF SOUTH TEXAS, 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 \$4,303,585.00).

WHEREAS, pursuant to Ordinance 2005-034, the Buy Board Cooperative Purchasing Network has solicited, received, and tabulated competitive bids for the purchase of necessary materials, equipment, supplies, or services in accordance with the procedures of state law and city ordinances; and

WHEREAS, the City Manager, or a designated employee, has reviewed and recommended that the herein described materials, equipment, supplies, or services can be purchased by the City through the Buy Board Cooperative Purchasing Network programs at less cost than the City would expend if bidding these items individually; and

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

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items shown in the “File Number” referenced herein and on file in the office of the Purchasing Agent, are hereby accepted and approved as being the lowest responsible bids for such items:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8873	Doggett Freightliner of South Texas, LLC	\$4,303,585.00

SECTION 2. By the acceptance and approval of the items set forth in the referenced file number, the City accepts the offer of the persons submitting the bids to the Buy Board Cooperative Purchasing Network for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, conditions, specifications, standards,

quantities, and for the specified sums contained in the bid documents and related documents filed with the Buy Board Cooperative Purchasing Network and the purchase orders issued by the City.

SECTION 3. Should the City and persons submitting approved and accepted items set forth in the referenced file number wish to enter into a formal written agreement as a result of the City’s ratification of bids awarded by the Buy Board Cooperative Purchasing Network, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, and standards contained in the Proposal submitted to the Buy Board Cooperative Purchasing Network, and the quantities and specified sums contained in the City’s purchase orders and related documents referenced herein are approved and accepted.

SECTION 4. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the items set forth in the referenced file number, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approval of purchase orders or pursuant to a written contract made pursuant thereto as authorized herein.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. 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.

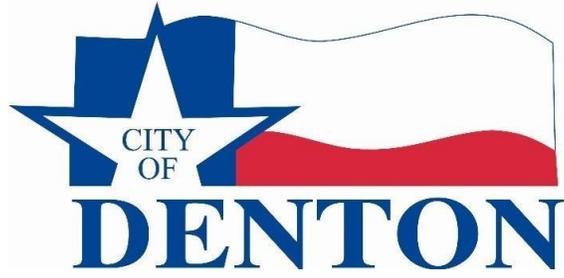
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn



DocuSign City Council Transmittal Coversheet

COOP	8873
File Name	Purchase, PM and Repair of Doggett Equipment
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND DOGETT FREIGHTLINER OF SOUTH TEXAS, LLC
(File # 8873)**

THIS CONTRACT is made and entered into this date _____, by and between **DOGETT FREIGHTLINER OF SOUTH TEXAS, LLC**, a Texas Limited Liability Company, whose address is 9111 NORTH FREEWAY HOUSTON, TX 77037, 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 Supplier's quote, a copy of which is on file at the office of the purchasing agent and 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) Buyboard Cooperative Purchasing Contract #687-22 and 723-23 with DOGETT FREIGHTLINER OF SOUTH TEXAS, LLC, (**Exhibit "B" on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit "C"**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit "D"**);
- (e) Insurance Requirements (**Exhibit "E"**);
- (f) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "F"**)

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

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott

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

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

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

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

Sections 2252 and 2270 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor, pursuant to Chapters 2252 and 2270, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

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

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

SUPPLIER

Signed by:
BY: Josh Meyers
F4AAE53AA28C4EE
AUTHORIZED SIGNATURE

Printed Name: Josh Meyers

Title: Director of Service
210 668 3425

PHONE NUMBER

josh.meyers@doggett.com

EMAIL ADDRESS

2025-1351352

**TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER**

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by:
Tom Gramer Tom Gramer
7B58DA8FCE5F49C...
SIGNATURE PRINTED NAME

Director
TITLE

Fleet
DEPARTMENT

Exhibit A
Special Terms and Conditions

1. Contract Term

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

The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

2. Total Contract Amount

The contract total shall not exceed **\$4,303,585**. Pricing shall be per Exhibit B on file at the office of the Purchasing Agent.

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are agreed between the parties as 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.

File 8873

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

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

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA) ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. **INVOICES:**

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

File 8873

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

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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. intentionally omitted.
- 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, except for delays due to force majeure, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of

any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

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

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

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City for payment other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Contractor's Offer

includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and, except for any proprietary information of Contractor, 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 during regular business hours, within ten (10) business days of written request. All books and records will be made available within a seventy-five (75) 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 5% or greater. If an overpayment of 5% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within fifteen (15) 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 seventy-five (75) 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 5% or greater. If an overpayment of 5% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within fifteen (15) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute

has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND

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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 – PARTS: The City acknowledges that Contractor is not the manufacturer of any parts sold hereunder, and that such parts are covered only by manufacturer warranties. Contractor hereby disclaims all other warranties not expressly set forth in this Agreement, whether express, implied or statutory, and including the warranties of merchantability, fitness for purpose, and non-infringement. Subject to the foregoing, Contractor warrants and represents that all parts sold the City under the Contract shall 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 parts shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the parts sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled parts shall be clearly identified as such.

B. Not used.

C. The manufacturer warranty period for parts is typically ninety (90) days from the date of first use, but may be longer. 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 parts with fully conforming parts, 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 parts as required by the City, then in addition to any other available remedy, the City may reduce the quantity of parts it may be required to purchase under the Contract from the Contractor, and purchase conforming parts 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 parts 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. Not Used.

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. Contractor hereby disclaims the implied warranties of merchantability and fitness for purpose. The Contractor may not otherwise limit, exclude, or disclaim the foregoing warranty or any other 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 three (3) months 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, unless the City's failure to give timely notice caused additional harm that would not otherwise exist but for City's failure.

C. If the Contractor is 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. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are agreed between the parties as 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 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default, 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 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 (i) such default does not, in fact, exist, or (ii) contractor's inability to timely cure is caused by external factors outside of its reasonable control. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual costs, 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 ordered on City's behalf or 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. Except for the ability of a party to satisfy payment obligations, 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, delays by the manufacturer of goods sold hereunder, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party (“force majeure”). 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. 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 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 TO THE EXTENT 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 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, except for proprietary 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: NOT USED.

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. Not used.

B. Copyrights. Not used.

C. Additional Assignments. Not Used.

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 solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. **NO SUBCONTRACTING BID AFTER AWARD:** Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. **NO GIFT OF PUBLIC PROPERTY:** The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

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

49. **ASSIGNMENT-DELEGATION:** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the

Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

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

50. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. DISPUTE RESOLUTION:

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each

party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute, however any decision requiring approval of the City Council of the City will be required to be submitted to the City Council and the senior level person shall have authority to recommend approval of any resolution. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

C. The parties shall not be required to submit to binding arbitration.

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

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

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

New Year's Day (observed) Martin Luther King, Jr. Day
--

Memorial Day
Juneteenth
Independence Day
Labor Day
Veteran’s Day
Thanksgiving Day
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

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

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

59. EQUAL OPPORTUNITY Contractor agrees that during the performance of its contract it will:

- A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
- B. Identify itself as an “Equal Opportunity Employer” in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
- C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor’s agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

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

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

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

ii. “Cost of components” means -

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

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

iii. “Domestic end product” means-

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

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

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

v. “Foreign end product” means an end product other than a domestic end product.

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

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

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

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

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

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

63. PREVAILING WAGE RATES: The Contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at

<http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

64. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

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

66. ATTORNEY'S FEES; LEGAL COSTS: Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

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

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

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

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

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

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

72. RECORDS RETENTION: The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. PROCUREMENT LAWS: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

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

The contractor shall:

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

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

Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents,

Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

- A. Commercial General Liability Insurance** including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

B. 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: \$500,000,000.00 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. Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of \$500,000.00 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.

D. Professional Liability Insurance

If CONTRACTOR is a licensed or certified person who renders professional services, then **Professional Liability Insurance** to provide coverage against any claim which the CONTRACTOR becomes legally obligated to pay as damages arising out of the performance of professional services caused by any negligent error, omission or act with minimum limits of \$1,000,000.00 per claim, \$2,000,000.00 annual aggregate.

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.

DOGGETT FREIGHTLINER OF SOUTH TEXAS, 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 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:
Josie Meyers

8/18/2025

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

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

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: E0368E6E-57CD-40E0-BBE0-00E2E3BDDE36

Status: Sent

Subject: Please DocuSign: City Council Contract 8873 - Purchase, PM and Repair of Doggett Equipment

Source Envelope:

Document Pages: 32

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Kayla Clark

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

kayla.clark@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Kayla Clark

Location: DocuSign

8/18/2025 6:27:34 AM

kayla.clark@cityofdenton.com

Signer Events

Signature

Timestamp

Kayla Clark

Completed

Sent: 8/18/2025 6:35:02 AM

kayla.clark@cityofdenton.com

Viewed: 8/18/2025 6:35:44 AM

Buyer

Signed: 8/18/2025 6:35:57 AM

City of Denton

Using IP Address: 198.49.140.10

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 8/18/2025 6:36:00 AM

lori.hewell@cityofdenton.com

Viewed: 8/18/2025 11:01:12 AM

Purchasing Manager

Signed: 8/18/2025 11:01:55 AM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 8/18/2025 11:01:58 AM

marcella.lunn@cityofdenton.com

Viewed: 8/18/2025 11:09:03 AM

Senior Deputy City Attorney

Signed: 8/18/2025 11:13:35 AM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Josh Meyers

Signed by:
Josh Meyers
F4AAE53AA28C4EE...

Sent: 8/18/2025 11:13:37 AM

josh.meyers@doggett.com

Viewed: 8/18/2025 11:19:59 AM

Director of Service

Signed: 8/18/2025 11:24:25 AM

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 70.116.179.106

Electronic Record and Signature Disclosure:

Accepted: 8/18/2025 11:19:59 AM

ID: 0b480a5f-1141-4a3f-8418-b5e488c7fcf3

Signer Events

Tom Gramer
Tom.Gramer@cityofdenton.com
Director
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

7B58DA8FCE5F49C...
Signature Adoption: Pre-selected Style
Using IP Address:
2600:100c:b297:722c:a94c:934b:5d46:1231
Signed using mobile

Timestamp

Sent: 8/18/2025 11:24:28 AM
Viewed: 8/18/2025 12:59:35 PM
Signed: 8/18/2025 12:59:53 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Sent: 8/18/2025 12:59:58 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

Ingrid Rex
Ingrid.rex@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: 8/18/2025 6:36:00 AM

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: 8/18/2025 1:00:00 PM
Viewed: 8/19/2025 12:30:45 PM

Carbon Copy Events	Status	Timestamp
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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

Nicole Brasher
Nicole.brasher@cityofdenton.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Accepted: 7/23/2025 6:52:44 AM
ID: 81235024-8d61-45e7-8315-00d08c061a25

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	8/18/2025 6:35:02 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

To contact us by email send messages to: purchasing@cityofdenton.com

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1547, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance by the City of Denton authorizing the City Manager to execute a Gas Line Rearrangement and Abandonment Agreement with EnLink North Texas Gathering, LP (“EnLink”), for the relocation of a 6-inch gas pipeline (DC-320), (“EnLink Facilities”), for the City’s Hickory Creek Road Phase 3 Widening and Realignment Project; providing for the expenditure of funds in the not-to-exceed amount of Three Hundred Twenty-Five Thousand Twenty-Three Dollars (\$325,023.00); authorizing the expenditure of funds therefor; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: Capital Projects
ACM: Frank Dixon
DATE: September 9, 2025

SUBJECT

Consider adoption of an ordinance by the City of Denton authorizing the City Manager to execute a Gas Line Rearrangement and Abandonment Agreement with EnLink North Texas Gathering, LP (“EnLink”), for the relocation of a 6-inch gas pipeline (DC-320), (“EnLink Facilities”), for the City’s Hickory Creek Road Phase 3 Widening and Realignment Project; providing for the expenditure of funds in the not-to-exceed amount of Three Hundred Twenty-Five Thousand Twenty-Three Dollars (\$325,023.00); authorizing the expenditure of funds therefor; and providing an effective date.

BACKGROUND

The Hickory Creek Road Phase 3 Project (“Project”) requires a four-lane extension and realignment of Hickory Creek Road from Riverpass Drive to FM-1830. The Project will include construction of a bridge that will span over Hickory Creek and remove the safety concern of the 90-degree curve from the current Hickory Creek Road alignment.

EnLink currently has a 6-inch gas pipeline situated in their privately held easements, that is in direct conflict with the Hickory Creek Road Phase 3 improvements. To ensure the Project can proceed as planned, the City and EnLink agree to enter into a Rearrangement and Abandonment Agreement (“Agreement”) to provide for the relocation (“Rearrangement”) of EnLink’s conflicting gas pipeline infrastructure; and the abandonment of certain easement areas upon completion of the relocation work. The Rearrangement and Abandonment Agreement (Exhibit A) provides for advanced payment by the City to EnLink for the estimated cost of \$325,023.00 to perform the work required for the identified pipelines in conflict. Existing funding from Streets/Traffic has been identified to cover this cost. Upon completion of the work, a final accounting will be performed and if applicable, EnLink will reimburse the City any unused funds as stated in the agreement.

RECOMMENDATION

Staff recommends approval of the ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On Oct. 4, 2021, City Council authorized the Professional Services Design contract with HDR (Ordinance 19-351)

On May 3, 2022, City Council authorized the Construction Contract with Mario Sinacola (Ordinance 22-911)

ESTIMATED SCHEDULE OF PROJECT

Construction – Q2 2025 thru Q3 2026

Project Closeout – Q1 2027

FISCAL INFORMATION

These services will be funded from Streets/Traffic C.O.
250081402.1365.41100

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Ordinance and Agreement

Respectfully submitted:
Seth Garcia, PMP
Director of Capital Projects

For information concerning this agreement, contact Tracy L. Beck, PE, PMP, at 940-349-8925.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 25-_____

AN ORDINANCE BY THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE A GAS LINE REARRANGEMENT AND ABANDONMENT AGREEMENT WITH ENLINK NORTH TEXAS GATHERING, LP (“ENLINK”), FOR THE RELOCATION OF A 6-INCH GAS PIPELINE (DC-320), (“ENLINK FACILITIES”), FOR THE CITY’S HICKORY CREEK ROAD PHASE 3 WIDENING AND REALIGNMENT PROJECT; PROVIDING FOR THE EXPENDITURE OF FUNDS IN THE NOT-TO-EXCEED AMOUNT OF THREE HUNDRED TWENTY-FIVE THOUSAND TWENTY-THREE DOLLARS (\$325,023.00); AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the existing rural Hickory Creek Road between FM 1830 and Riverpass is being reconstructed to accommodate the four-lane divided urban street section called Phase 3 of the Hickory Creek Road Widening and Realignment Project (the “Project”); and

WHEREAS, construction of the Project makes necessary the relocation and adjustment of an existing EnLink 6-inch gas pipeline (DC-320) due to a conflict with the bridge structure; and

WHEREAS, the existing 6-inch gas pipeline is situated in a privately held easement, that is in direct conflict with the Hickory Creek Road Phase 3 improvements; and

WHEREAS, EnLink’s privately held easements predated the City’s acquisition of the right-of-way tracts encumbered by those easements, therefore being superior in title; and

WHEREAS, to ensure the City’s Project can proceed as planned, the City and EnLink agree to enter into a Rearrangement and Abandonment Agreement (the “Agreement”) to provide for the relocation of EnLink’s conflicting gas pipeline infrastructure; and

WHEREAS, EnLink prepared a relocation plan with an estimated cost summary associated with the relocation plan; and

WHEREAS, the City and EnLink have agreed to a not-to-exceed amount of Three Hundred Twenty-Five Thousand Twenty-Three Dollars and Zero Cents for the not-to-exceed costs; and

WHEREAS, the attached Agreement provides the City and EnLink desire to enter into an Agreement to provide for the relocation of the EnLink facilities and provide payment to EnLink; and

WHEREAS, the execution of this Agreement will minimize project delay and costs; and

WHEREAS, the City Council having considered the importance of the Project to the citizens of Denton and finding that it is in the public's health and safety interest, is of the opinion that it should approve the Agreement; **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 as true and as if fully set forth in the body of this ordinance.

SECTION 2. The City Manager, or their designee, is hereby authorized to execute on behalf of the City; the Agreement a copy of which is attached hereto as Exhibits “A” and made a part hereof for all purposes.

SECTION 3. The City Manager, or designee, is hereby authorized to expend funds in an amount not to exceed THREE HUNDRED TWENTY-FIVE THOUSAND TWENTY-THREE DOLLARS (\$325,023.00).

SECTION 4. The City Manager is further authorized to carry out all duties and agreements to be performed by the City under the Agreement.

SECTION 5. The City Manager, or designee, is the City’s designated, authorized official, with the power to authorize, accept, reject, alter or terminate the Agreement on behalf of the City and act on behalf of the City of Denton in all matters related to the Agreement and any subsequent agreements that may result.

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 [___ - ___]:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
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

REARRANGEMENT AND ABANDONMENT AGREEMENT
Between
THE CITY OF DENTON
And
ENLINK NORTH TEXAS GATHERING, LP

This Agreement (this "Agreement") is entered into as of the ____ day of _____, 2025, by and between the CITY OF DENTON, a Texas Home Rule Municipal Corporation of Denton County, Texas (the "City"), and ENLINK NORTH TEXAS GATHERING, LP, a Texas limited partnership, whose address is 100 W. 5th Street, Tulsa, Oklahoma 74103 ("EnLink"), acting herein by and through their duly authorized officers (sometimes hereinafter collectively referred to as the "Parties").

WHEREAS, the City is in the process of constructing the Hickory Creek Bridge Project (the "Hickory Creek Bridge Project") in the City of Denton, Texas; and

WHEREAS, construction of the Hickory Creek Bridge Project makes necessary the relocation, adjustment and lowering of one (1), 6-inch EnLink gas pipeline (DC-320), ("EnLink Facilities"), as shown on the "Hickory Creek Relocation" plan prepared by EnLink, attached hereto as Attachment No. 1 and the Cost Estimate prepared by EnLink, attached hereto as Attachment No. 2 (the "Pipeline Relocation Work"); and

WHEREAS, EnLink is the holder of an easement ("EnLink Easement"), located within the city owned property, parcel ID number 1074399 that is in direct conflict with the Hickory Creek Bridge Project; and

WHEREAS, the Hickory Creek Bridge Project will require EnLink to relocate and rearrange the EnLink Facilities; and

WHEREAS, EnLink has offered to amend certain portions of the EnLink Easement in exchange for the City paying the costs for the relocation of EnLink Facilities as proposed in the Cost Estimate attached and provided for in this Agreement; and

WHEREAS, the cost of all such rearrangement of the EnLink Facilities shall be paid by the City; and

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and EnLink hereby agree as follows:

1. The declarations contained in the preamble to this Agreement are material and are hereby repeated and incorporated herein as a part of this Agreement as though they were fully set forth in this paragraph 1.

2. Definitions. As used in this Agreement, the following terms shall have the meaning as defined:

2.01 "Written Notice" shall mean a document, acceptable in form and substance to EnLink and the City, which the City will issue to EnLink to authorize the performance of the Pipeline Relocation Work under the terms of this Agreement.

3. General.

3.01 Reserved.

3.02 EnLink's receipt of all property rights necessary for completion of the Pipeline Relocation Work is a condition to EnLink's obligations hereunder, and all costs associated with obtaining such property rights shall be reimbursed by the City. EnLink will use commercially reasonable efforts to acquire property rights necessary for the Pipeline Relocation Work, such costs thereto shall be reimbursed by the City. If EnLink is unable to obtain easements, rights-of-way and other interests in land required for the Pipeline Relocation Work, after making an offer in writing, based on the fair market value of the property interest to the property owner from whom the property interest is being acquired, EnLink shall so notify the City with alternate solution for relocation and alternate to allow commencement of drilling.

3.03 Subject to the terms and conditions of this Agreement, EnLink agrees and consents to carry out, or cause to carry out, the Pipeline Relocation Work. The Pipeline Relocation Work will be performed in accordance with applicable laws and regulations.

3.04 The City shall reasonably cooperate with EnLink in completing the Pipeline Relocation Work.

3.05 EnLink estimates that the Pipeline Relocation Work will be completed within sixty (60) days following EnLink's commencement of the Pipeline Relocation Work, subject to delays caused by Force Majeure Events (as defined herein) or acts or omissions of any third party. EnLink agrees to exercise reasonable efforts to commence the Pipeline Relocation Work within thirty (30) days after the later of (i) EnLink's receipt of payment in the amount of the Cost Estimate attached herein and Written Notice from the City or (ii) satisfaction of all conditions to EnLink's obligations hereunder, subject to delays caused by Force Majeure Events or acts or omissions of any third party. As used herein, "Force Majeure Events" means: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or

not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; and (h) other events beyond the reasonable control of EnLink, including, without limitation, inability to access necessary work areas for any reason, or the unavailability of labor or materials. EnLink agrees to diligently pursue completion of the Pipeline Relocation Work, but in no event shall EnLink be subject to any liability or be required to expend any additional funds to expedite the Pipeline Relocation Work.

- 3.06 Within 90 days following completion of the Pipeline Relocation Work, EnLink will execute and deliver to the City an Amendment of Easement in the form attached hereto as Attachment No. 3.

4. Costs, Billing, and Payment

- 4.01 The full execution of this Agreement by the parties hereto shall obligate the City to pay a lump sum not to exceed Three Hundred Twenty-Five Thousand Twenty-Three Dollars (\$325,023.00), subject to appropriation. Such costs and expenses include EnLink's costs associated with the relocation, construction, and installation of the EnLink Facilities, material, labor, testing, inspection, contracts, rights-of-way and contingency costs, plus fifteen percent (15%) of the foregoing costs to cover administrative, general, supervision and engineering overhead costs (the "Construction Management Fee"). The estimated cost of the Pipeline Relocation Work is Three Hundred Twenty-Five Thousand Twenty-Three Dollars (\$325,023.00). The parties acknowledge this is an estimate and that final settlement will be based off invoices, as more fully described below.
- 4.02 Prior to EnLink performing any Pipeline Relocation Work hereunder, and as a condition precedent to EnLink's obligations hereunder, the City will pay EnLink the estimated project cost of Three Hundred Twenty-Five Thousand Twenty-Three DOLLARS (\$325,023.00) via wire transfer as instructed.
- 4.03 During the performance of the Pipeline Relocation Work, EnLink will maintain and provide to the City up to date monthly project costs.
- 4.04 EnLink will advise the City of any cost over-runs and/or unforeseen expenses above and beyond the estimated cost attached herein with as much notice as is reasonably possible for each occurrence.

- 4.05 The City will process authorized costs above and beyond the estimated cost attached herein as a change order to this Agreement following the City's Procurement Policy and may require city council authorization and in compliance with 6.05 of this Agreement.
- 4.06 After completion of the Pipeline Relocation Work, or earlier termination of this Agreement for any reason, and after any and all pertinent third party invoices are received and accounted for by EnLink, EnLink will furnish to the City a final statement ("Statement") setting forth (a) the total actual costs incurred by EnLink for the Pipeline Relocation Work, including, but not limited to, the design, material procurement and/or restocking fees, overhead charges, and/or relocation, construction, and installation of the EnLink Facilities, and/or the Construction Management Fee (the "EnLink Total Cost"), less (b) prior amounts paid by the City to EnLink for the Pipeline Relocation Work. Any amount outstanding beyond the authorized not to exceed amount for this Agreement including any authorized change orders will be processed according to the City's Procurement Policy and may require city council authorization. Upon approval of any outstanding change order(s) following the City's Procurement Policy, the City shall pay EnLink the final authorized outstanding amount remaining per the agreement terms, via wire transfer pursuant to the previous wiring transfer instructions. Notwithstanding the above, City shall retain the right to require EnLink to provide full documentation of all expenses incurred as well as any non-privileged correspondence and/or documentation related to items which may cause delays in the completion of the pipeline work beyond the terms stated herein. Furthermore, should the EnLink Total Cost be less than the prepayment made in accordance with Section 4.01 above, EnLink will return said excess funds to the City within ninety (90) days of the City's receipt and agreement of the Final Statement.

5. Term and Termination

- 5.01 This Agreement shall become effective as of the Effective Date and shall not expire prior to the satisfaction of each Party's obligations hereunder, including the City's full and complete payment to EnLink in accordance with Article 4. Notwithstanding any provision of this Agreement to the contrary, this Agreement may be terminated in a writing executed by authorized representatives of the City and EnLink.
- 5.02 This Section 5.02, and Article 6 (Miscellaneous) shall survive the termination or expiration of this Agreement.

6. Miscellaneous.

- 6.01 Notice. Any notice provided for in this Agreement to be given by either party to the other, shall be in writing and shall be deemed given when personally delivered, or three (3) business days after being deposited in the United States Mail, postage prepaid, certified, return receipt requested, or registered and addressed as follows:

To the City:

Sara Hensley
City Manager
215 East McKinney Street
Denton, Texas 76201
Phone: 940-349-7100

With a Copy to:

City of Denton
Attn: Seth Garcia, PMP, Director
Capital Improvement Projects
215 East McKinney Street
Denton, Texas 76205

To EnLink:

EnLink North Texas Gathering, LP
Attn: Real Estate Services (Colin Brammell)
100 W. 5th Street
Tulsa, Oklahoma 74103
Telephone No.: 405-422-8919

Either party may change its address or facsimile number for notice by giving the other party written notice of same.

- 6.02 Ownership. All EnLink Facilities are the property of EnLink, and EnLink will continue to own all EnLink Facilities upon completion of the Pipeline Relocation Work.
- 6.03 Assignment. EnLink shall not sell, assign, or transfer its interest or rights in this Agreement, or any claim or cause of action related thereto in whole or in part, without the prior written consent of the City. As an express condition of consent to any assignment, EnLink shall remain liable for completion of the Pipeline Relocation Work in the event of default by the assignee.
- 6.04 Waiver of Consequential Damages. Neither Party shall be liable to the other in any action or claim for consequential, indirect, punitive or special damages (including lost profits) whether the action or claim in which recovery is sought is based on contract, tort

(including sole or concurrent negligence), gross negligence, intentional or wrongful acts, or strict liability of the Party. To the extent permitted by law, any statutory remedies inconsistent with these terms are waived by the Parties.

- 6.05 Amendment. This Agreement may not be amended except in a written instrument specifically referring to this Agreement and signed by the Parties hereto and dated after the date of this Agreement is signed.
- 6.06 Applicable Law Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. This Agreement is to be performed in whole or in part in Denton County, Texas. Sole venue for any proceeding to construe or enforce any of the terms or conditions of this Agreement, or seeking damages for its breach shall be Denton County, Texas.
- 6.07 Number and Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context clearly requires otherwise.
- 6.08 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- 6.09 Sole Agreement. This Agreement constitutes the sole agreement between the Parties respecting the subject matter and supersedes any prior understandings or written or oral agreements.
- 6.10 Legal Construction. In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions in this document and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

[signatures on following page]

EXECUTED by the Parties on the dates indicated with their signatures, but effective as of the date specified at the beginning of this Agreement (the "Effective Date"):

ENLINK:

The CITY:

ENLINK NORTH TEXAS GATHERING, LP

CITY OF DENTON

By: EnLink Energy GP, LLC
its general partner

By: 
Signature

By: _____
Sara Hensley, City Manager

Christopher J. Greneau
Printed Name

Date

Director - Real Estate Services
Title

8-14-2025
Date

THIS AGREEMENT HAS BEEN BOTH REVIEWED AND APPROVED AS TO financial and operational obligations and business terms.

ATTEST:
LAUREN THODEN,
CITY SECRETARY

Signature

BY: _____

Title

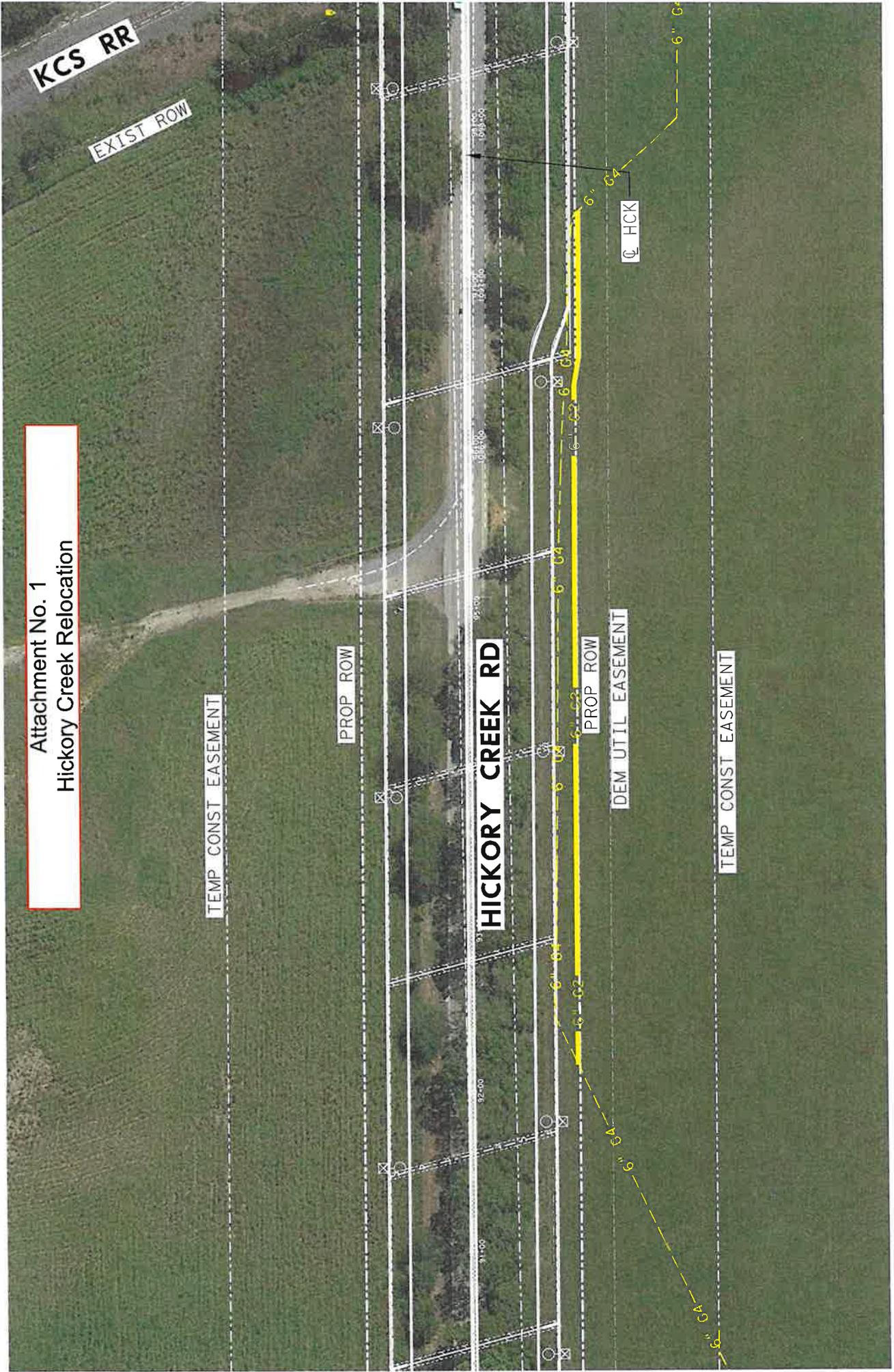
APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Department

BY: _____

Date

Attachment No. 1
Hickory Creek Relocation



Attachment No. 2 Pipeline Relocation Work

If a select is added to make "Adjustments" match the Tax & Freight calculation

Hickory Creek Bridge 6in Relocation

TOTAL Budget:		10.0%	Freight Cont. % of Materials		5.0%		\$325,023					
Exp Type	Expense Description	Qty	Unit	Unit	\$ per Unit	Taxable	Base Cost	Adjustments	Freight	Tax	TOTAL Cost	Comments
Land & Improvements												
265	Land Survey Costs	655	Feet	each	\$29	No	\$18,668				\$18,668	
800	ROW Pipeline (Private)	655	Plan	each	\$80	No	\$52,400				\$52,400	
810	ROW Agmt- Titles	1	Feet	each	\$1,500	No	\$1,500				\$1,500	
811	ROW Agmt- Acquisition	1	Feet	each	\$5,000	No	\$5,000				\$5,000	
812	ROW Agmt- Other	1	Feet	each	\$1,500	No	\$1,500				\$1,500	
Construction Services												
820	Inspection - X-Ray/NDI	9	Dwgs	each	\$1,500	No	\$13,500				\$13,500	
821	Inspection - Safety	18	Miles	each	\$1,000	No	\$18,000				\$18,000	
884	Cont- Mech - Barriery	655	LF	each	\$95	No	\$62,225				\$62,225	
887	Cont- Mech - Rock Ditch	655	LF	each	\$14	No	\$9,170				\$9,170	
888	Cont- Mech - Foreign Line Crossings - Rock	300	LF	each	\$12	No	\$3,600				\$3,600	
889	Cont- Mech - Pipeline	2	Each	each	\$2,600	No	\$5,200				\$5,200	
890	Cont- Mech - Appurtenances	1	Each	each	\$16,982	No	\$16,982				\$16,982	
Plant & Equipment												
151	Pipe, Valves & Fittings	1	Lot	each	\$11,300	Yes	\$11,300		\$500		\$11,800	
155	Steel Pipe	655	Feet	each	\$19	Yes	\$12,445			\$1,245	\$13,690	
856	Freight - Pipe	1	Trucks	each	\$1,400	No	\$1,400				\$1,400	
Permits & Fees												
207	Professional Fees						\$45,954				\$45,954	
113	Allocated Capital Labor	1	Lot	each	\$7,500	No	\$7,500				\$7,500	
551	Travel & Lodging	1	Lot	each	\$36,864	No	\$36,864				\$36,864	15% non refundable management fee
Subtotal before Contingency												
								\$279,754	\$500	\$2,375	\$282,628	
Contingency												
								\$42,394	\$500	\$2,375	\$45,268	Contingency is 13.04% of \$325,023
PROJECT TOTAL								\$322,148	\$500	\$2,375	\$325,023	

Attachment No. 3

**AMENDMENT
TO
RIGHT-OF-WAY AGREEMENT**

Line Name: DC-320

Line No: DC-320

WHEREAS, EnLink North Texas Gathering, LP ("Grantee") is the current "Grantee" under that certain Right-of-Way Agreement dated February 5, 2003, recorded as Volume 5292, Page 1312 of the official records of Denton County, Texas (as amended, assigned and modified from time to time, the "Agreement"), affecting certain property as further described therein (the "Agreement Land");

WHEREAS, The City of Denton ("Owner") is the current owner of certain property described in Exhibit A attached hereto (the "Owner Land"). The portion of the Owner Land that is included within the Agreement Land is herein called the "Affected Land";

WHEREAS, Owner has requested that Grantee amend the Agreement as related to the Affected Land to reflect the location of the portion of the right-of-way and easement granted under the Agreement located on the Affected Land; and

WHEREAS, Grantee is agreeable to amending the Agreement as related to the Affected Land so that the portion of the right-of-way and easement granted under the Agreement located on the Affected Land are those thirty-foot (30') wide easement areas depicted/described on Exhibit B attached hereto and incorporated herein by reference (collectively, the "Affected Land Easement Tracts").

NOW THEREFORE, Grantee and Owner, for and in consideration of the mutual advantages to accrue to each party and to future owners of the Affected Land, agree as follows:

1. With respect to the Affected Land, as of the effective date hereof, the Agreement is hereby amended and modified so that the portion of the right-of-way and easement granted under the Agreement located on the Affected Land is amended to be the Affected Land Easement Tracts. Notwithstanding anything to the contrary, Grantee and its agents, employees, contractors and subcontractors shall have the right to use any roads located now or in the future within the Owner Land, as relocated from time to time. Subject to the foregoing, all rights of Grantee under and by virtue of the Agreement will remain in full force and effect and are in no manner waived or impaired as to the Affected Land Easement Tracts or land not located within the Affected Land.

2. Except as specifically modified herein, all of the other terms and provisions of the Agreement shall remain in full force and effect, unmodified by this Amendment, and are hereby ratified and confirmed by Grantee and Owner with respect to the Affected Land. Notwithstanding the foregoing, in the event there is any conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall control with respect to the Affected Land.

IN WITNESS WHEREOF, the undersigned have caused their duly authorized representatives to execute this Amendment effective as of the date and in the capacities shown below.

EXECUTED as of the dates set forth in the respective acknowledgments, but to be effective as of _____, 2025.

GRANTEE:

EnLink North Texas Gathering, LP

By: EnLink Energy GP, LLC
its general partner

By: _____
Christopher J. Greneaux
Director of Land

STATE OF LOUISIANA

PARISH OF LAFAYETTE

This instrument was acknowledged before me on the ____ day of _____, 2025, by Christopher J. Greneaux, Director of Land for EnLink Energy GP, LLC, general partner of EnLink North Texas Gathering, LP, on behalf of said entities.

[SEAL]

Notary Public, State of Louisiana

[OWNER'S SIGNATURE PAGE FOLLOWS]

OWNER:

The City of Denton

By: _____
Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

This instrument was acknowledged before me on the ____ day of _____,
202____, by _____, _____ of
_____, on behalf of said entity.

[SEAL]

Notary Public, State of _____

EXHIBIT A

Owner Land

BEING A 1.7523 ACRE (76,331 SQUARE FEET) TRACT OF LAND IN THE J. ROGERS SURVEY, ABSTRACT NO. 1084, DENTON COUNTY, TEXAS, AND BEING A PART A CALLED 80.5 ACRE TRACT OF LAND DESCRIBED AS TRACT 5 IN DEED TO WALTER EDWARD LEATHERWOOD AND THOMAS JACK ROBERTSON EXECUTED ON JULY 01, 1963, RECORDED IN VOLUME 496, PAGE 241 OF THE OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS (O.P.R.D.C.T.), SAID 1.7523 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A 3/8 INCH CAPPED IRON ROD FOUND (CIRF) YELLOW PLASTIC CAP STAMPED "TNP" AT THE NORTHEAST CORNER OF A CALLED 48 ACRE TRACT OF LAND DESCRIBED AS TRACT 3 IN SAID VOLUME 496, PAGE 241 O.P.R.D.C.T., SAME BEING THE NORTHWEST CORNER OF A CALLED 27 ACRE TRACT OF LAND DESCRIBED AS TRACT 5 IN SAID VOLUME 496, PAGE 241 O.P.R.D.C.T., ALSO BEING IN THE SOUTH RIGHT-OF-WAY (ROW) LINE OF HICKORY CREEK ROAD (A VARIABLE WIDTH ROW) PER A CALLED 1.788 ACRE TRACT OF LAND DESCRIBED IN DEED TO THE CITY OF DENTON, TEXAS RECORDED IN INSTRUMENT NUMBER 2003-95908 O.P.R.D.C.T., FROM WHICH A 3/8 INCH CIRF YELLOW PLASTIC CAP STAMPED "TNP" BEARS SOUTH 78 DEGREES 42 MINUTES 35 SECONDS EAST, A DISTANCE OF 191.87 FEET;

THENCE, SOUTH 89 DEGREES 15 MINUTES 26 SECONDS WEST ALONG THE NORTH LINE OF SAID TRACT 3, SAME BEING A COMMON SOUTH ROW LINE OF HICKORY CREEK ROAD, A DISTANCE OF 837.03 FEET TO A 5/8 INCH CIRF STAMP "ILLEGIBLE" ON THE SOUTHERLY EXISTING ROW LINE OF HICKORY CREEK ROAD, SAME BEING THE NORTH LINE OF A CALLED 26 ACRE TRACT OF LAND DESCRIBED AS TRACT 4 IN SAID VOLUME 496, PAGE 241 O.P.R.D.C.T., ALSO BEING THE SOUTHWEST CORNER OF SAID 1.788 ACRE TRACT;

THENCE, NORTH 00 DEGREES 44 MINUTES 34 SECONDS WEST WITH A NORTHERLY LINE OF SAID TRACT 4 AND THE COMMON WEST LINE OF SAID 1.788 ACRE TRACT, A DISTANCE OF 55.00 FEET TO THE SOUTHEAST CORNER OF A CALLED 5 ACRE TRACT OF LAND DESCRIBED IN DEED TO TOMMY CALVERT AND CONNIE CARDWELL RECORDED IN INSTRUMENT NUMBER 2011-36571 O.P.R.D.C.T., SAME BEING THE NORTHWEST CORNER OF SAID 1.788 ACRE TRACT, ALSO BEING THE APPROXIMATE SOUTHEAST CORNER OF SAID M. ROGERS SURVEY AND THE APPROXIMATE SOUTHWEST CORNER OF THE N. BRITTON SURVEY, ABSTRACT NUMBER 51 AND IN THE NORTH LINE OF SAID J. ROGERS SURVEY;

THENCE, SOUTH 89 DEGREES 07 MINUTES 46 SECONDS WEST ALONG THE NORTH LINES OF TRACTS 1, 2, AND 4 OF SAID VOLUME 496, PAGE 241, SAME BEING THE COMMON SOUTH LINE OF SAID 5 ACRE TRACT, AND ALONG THE SOUTH LINE OF A CALLED 0.3849 ACRE TRACT OF LAND DESCRIBED IN DEED TO TOMMIE DALE CALVERT RECORDED IN VOLUME 3318, PAGE 915 O.P.R.D.C.T., AND ALONG THE SOUTH LINE OF A CALLED 0.3847 ACRE TRACT OF LAND DESCRIBED IN DEED TO CONNIE ANN CARDWELL RECORDED IN VOLUME 3318, PAGE 919 O.P.R.D.C.T., AND ALONG THE SOUTH LINE OF A CALLED 2.61 ACRE TRACT OF LAND DESCRIBED AS TRACT ONE IN DEED TO E.D. CALVERT, JR. AND WILLIAM THOMAS CALVERT RECORDED IN VOLUME 1496, PAGE 921 O.P.R.D.C.T., AND ALONG THE SOUTH LINE OF A CALLED 60.80 ACRE TRACT OF LAND DESCRIBED AS TRACT 2 TO CALVERT PAVING CORP. RECORDED IN VOLUME 2115, PAGE 425 O.P.R.D.C.T., AND ALONG THE NORTH LINE OF A CALLED 0.15 ACRE TRACT OF LAND DESCRIBED AS THE SECOND TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 152 O.P.R.D.C.T., AND ALONG THE SOUTH LINE OF A CALLED 0.18 ACRE TRACT OF LAND DESCRIBED AS THE FOURTH TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 152 O.P.R.D.C.T., AND ALONG THE NORTH LINE OF A CALLED 6.61 ACRE TRACT OF LAND DESCRIBED AS THE FIRST TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 152 O.P.R.D.C.T., AND ALONG THE SOUTH LINE OF A CALLED 2.82 ACRE TRACT OF LAND DESCRIBED AS THE THIRD TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 250 O.P.R.D.C.T., AT A DISTANCE OF 1,404.31 TO THE NORTHWEST CORNER OF SAID 6.61 ACRE TRACT, SAME BEING THE SOUTHWEST CORNER OF SAID 2.82 ACRE TRACT, ALSO BEING THE NORTHEAST CORNER OF A CALLED 0.18 ACRE TRACT OF LAND DESCRIBED AS THE THIRD TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 152 O.P.R.D.C.T., FURTHER BEING THE SOUTHEAST CORNER OF A CALLED 0.15 ACRE TRACT OF LAND DESCRIBED AS THE FIRST TRACT TO GULF, COLORADO, AND SANTA FE RAILWAY COMPANY RECORDED IN VOLUME 433, PAGE 250 O.P.R.D.C.T.;

THENCE, SOUTH 26 DEGREES 22 MINUTES 15 SECONDS EAST ALONG THE WEST LINE OF SAID 6.61 ACRE TRACT AND THE COMMON EAST LINE OF SAID 0.18 ACRE TRACT, A DISTANCE OF 55.80 FEET TO A 5/8 INCH CAPPED IRON ROD SET STAMPED "LAMB-STAR" (CIRS) AT THE POINT OF BEGINNING, HAVING A COORDINATE OF NORTH 7,104,016.37 FEET, EAST 2,387,603.84 FEET;

- 1) THENCE, SOUTH 26 DEGREES 22 MINUTES 15 SECONDS EAST ALONG THE WEST LINE OF SAID 6.61 ACRE TRACT AND THE COMMON LINE OF SAID 80.5 ACRE TRACT, A DISTANCE OF 32.17 FEET TO THE SOUTHERLY PROPOSED ROW LINE OF HICKORY CREEK ROAD;

- 2) THENCE, SOUTH 89 DEGREES 51 MINUTES 04 SECONDS WEST OVER AND ACROSS SAID 80.5 ACRE TRACT, A DISTANCE OF 1,190.26 FEET TO A CIRS IN THE WEST LINE OF SAID 80.5 ACRE TRACT, SAME BEING THE COMMON EAST LINE OF A CALLED 43.430 ACRE TRACT OF LAND DESCRIBED AS TRACT 6 TO PREMIER HAVEN OF HOPE, LTD RECORDED IN INSTRUMENT NUMBER 200850871 O.P.R.D.C.T.;
- 3) THENCE, NORTH 03 DEGREES 50 MINUTES 06 SECONDS WEST ALONG SAID COMMON LINE, A DISTANCE OF 64.50 FEET TO THE NORTHWEST CORNER OF SAID 80.5 ACRE TRACT, SAME BEING THE SOUTHWEST CORNER OF A CALLED 15.7998 ACRE TRACT OF LAND DESCRIBED AS TRACT 2 TO TOMMIE DALE CALVERT RECORDED IN VOLUME 3318, PAGE 908 O.P.R.D.C.T.;
- 4) THENCE, NORTH 89 DEGREES 07 MINUTES 46 SECONDS EAST ALONG THE NORTH LINE OF SAID 80.5 ACRES AND THE COMMON SOUTH LINE OF SAID 15.7998 ACRE TRACT, A DISTANCE OF 955.62 FEET TO THE NORTHWEST CORNER OF SAID 0.18 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF SAID 0.15 ACRE TRACT;
- 5) THENCE, SOUTH 00 DEGREES 50 MINUTES 49 SECONDS WEST ALONG THE WEST LINE OF SAID 0.18 ACRE TRACT, A DISTANCE OF 25.00 FEET TO THE SOUTHWEST CORNER OF SAID 0.18 ACRE TRACT;
- 6) THENCE, SOUTH 84 DEGREES 25 MINUTES 46 SECONDS EAST ALONG THE SOUTH LINE OF SAID 0.18 ACRE TRACT A DISTANCE OF 226.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.7523 ACRE (76,331 SQUARE FEET) OF LAND.

EXHIBIT B

Affected Land Easement Tracts

{FOLLOWS}



City of Denton

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

Legislation Text

File #: ID 25-1592, Version: 1

AGENDA CAPTION

Consider adoption of an ordinance of the city council of the City of Denton, Texas, approving a negotiated settlement between the Atmos cities steering committee (“ACSC”) and Atmos Energy Corp., Mid-Tex division regarding the company’s 2025 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel.



AGENDA INFORMATION SHEET

DEPARTMENT: Finance
ACM: Christine Taylor
DATE: September 9, 2025

SUBJECT

Consider adoption of an ordinance of the city council of the City of Denton, Texas, approving a negotiated settlement between the Atmos cities steering committee (“ACSC”) and Atmos Energy Corp., Mid-Tex division regarding the company’s 2025 rate review mechanism filing; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the attached settlement tariffs to be just and reasonable and in the public interest; approving an attachment establishing a benchmark for pensions and retiree medical benefits; requiring the company to reimburse ACSC’s reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas open meetings act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC’s legal counsel.

BACKGROUND

The City, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex” or “Company”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism (“RRM”), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACSC members in 2018. On or about April 1, 2025, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2024, entitled it to additional system-wide revenues of \$245.2 million.

Application of the standards set forth in ACSC’s RRM Tariff reduces the Company’s request to \$225.6 million, \$163.5 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC’s consultants concluded that the system-wide deficiency under the RRM regime should be \$185.6 million instead of the claimed \$245.2 million.

After several settlement meetings, the parties have agreed to settle the case for \$205.6 million. This is a reduction of \$20 million to the Company’s initial request. This includes payment of ACSC’s expenses. The Effective Date for new rates is October 1, 2025.

Summary:

- \$245.2M:** Atmos Original Request (system-wide)
- \$225.6M:** RRM Tariff Applied Standard (system-wide)
- \$185.6M:** RRM Tariff Reviewed of Applied Standard (system-wide)
- \$205.6M:** **Agreed Upon Review/Negotiation**
- \$39.6M:** Savings from Atmos Original Request

Bill Impact

The impact of the settlement on average residential rates is an increase of \$7.83 on a monthly basis, or 9.27%. The increase for average commercial usage will be \$25.73 or 6.56%. Atmos provided bill impact comparisons containing these figures.

RRM Savings Over GRIP

ACSC strongly opposed the GRIP process because it constitutes piecemeal ratemaking by ignoring declining expenses and increasing revenues while rewarding the Company for increasing capital investment on an annual basis. The GRIP process does not allow any review of the reasonableness of capital investment and does not allow cities to participate in the Railroad Commission’s review of annual GRIP filings or allow recovery of Cities’ rate case expenses. The Railroad Commission undertakes a mere administrative review of GRIP filings (instead of a full hearing) and rate increases go into effect without any material adjustments. In ACSC’s view, the GRIP process unfairly raises customers’ rates without any regulatory oversight. In contrast, the RRM process has allowed for a more comprehensive rate review and annual evaluation of expenses and revenues, as well as capital investment.

While residents outside municipal limits must pay rates governed by GRIP, there are some cities served by Atmos Mid-Tex that chose to remain under GRIP rather than adopt RRM. Additionally, the City of Dallas adopted a variation of RRM which is referred to as DARR. When new rates become effective on October 1, 2025, ACSC residents will maintain an economic monthly advantage over GRIP and DARR rates.

<u>Comparison to Other Mid-Tex Rates (Residential)</u>		
Description	Average Bill	Compared to RRM Cities
RRM Cities	\$54.68	-
DARR	\$58.57	+ \$3.89
ATM Cities	\$57.39	+ \$2.71
Environs	\$55.96	+ \$1.28

RECOMMENDATION

Staff recommends approval of the ordinance.

EXHIBITS

- Exhibit 1 - Agenda Information Sheet
- Exhibit 2 - Ordinance
- Exhibit 3 - RRM Tariff
- Exhibit 4 - Pension and Retiree Benchmark
- Exhibit 5 - Average Bill Comparison

Respectfully submitted:
Matt Hamilton
Assistant Finance Director

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2025 RATE REVIEW MECHANISM FILING; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE ATTACHED SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; APPROVING AN ATTACHMENT ESTABLISHING A BENCHMARK FOR PENSIONS AND RETIREE MEDICAL BENEFITS; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL.

WHEREAS, the City of Denton, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates, charges, and services of Atmos Mid-Tex; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of, and response to, natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the current RRM tariff was adopted by the City in a rate ordinance in 2018; and

WHEREAS, on about April 1, 2025, Atmos Mid-Tex filed its 2025 RRM rate request with ACSC Cities based on a test year ending December 31, 2024; and

WHEREAS, ACSC coordinated its review of the Atmos Mid-Tex 2025 RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve an increase in base rates for Atmos Mid-Tex of \$205.6 million on a system-wide basis with an Effective Date of October 1, 2025; and

WHEREAS, ACSC agrees that Atmos' plant-in-service is reasonable; and

WHEREAS, with the exception of approved plant-in-service, ACSC is not foreclosed from future reasonableness evaluation of costs associated with incidents related to gas leaks; and

WHEREAS, the attached tariffs (Attachment 1) implementing new rates are consistent with the recommendation of the ACSC Executive Committee, are agreed to by the Company, and are just, reasonable, and in the public interest; and

WHEREAS, the settlement agreement sets a new benchmark for pensions and retiree medical benefits (Attachment 2); and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications. NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

Section 1. The findings set forth in this Ordinance are hereby in all things approved.

Section 2. Without prejudice to future litigation of any issue identified by ACSC, the City Council finds that the settled amount of an increase in revenues of \$205.6 million on a system-wide basis represents a comprehensive settlement of gas utility rate issues affecting the rates,

operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2025 RRM filing, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

Section 3. Despite finding Atmos Mid-Tex's plant-in-service to be reasonable, ACSC is not foreclosed in future cases from evaluating the reasonableness of costs associated with incidents involving leaks of natural gas.

Section 4. The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as Attachment 1, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$205.6 million on a system-wide basis, over the amount allowed under currently approved rates. Such tariffs are hereby adopted.

Section 5. The ratemaking treatment for pensions and retiree medical benefits in Atmos Mid-Tex's next RRM filing shall be as set forth on Attachment 2, attached hereto and incorporated herein.

Section 6. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's 2025 RRM filing.

Section 7. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

Section 8. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 9. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remaining

provisions of this Ordinance, and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Section 10. Consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after October 1, 2025.

Section 11. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Thomas Brocato, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

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: _____

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 23.65 per month
Rider CEE Surcharge	\$ 0.03 per month ¹
Total Customer Charge	\$ 23.68 per month
Commodity Charge – All <u>Ccf</u>	\$ 0.74748 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2025.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 94.00 per month
Rider CEE Surcharge	\$ 0.01 per month ¹
Total Customer Charge	\$ 94.01 per month
Commodity Charge – All Ccf	\$ 0.22261 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Presumption of Plant Protection Level

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at mdtx-div-plantprotection@atmosenergy.com.

¹ Reference Rider CEE - Conservation and Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2025.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 200 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 200 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,848.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.7678 per MMBtu
Next 3,500 MMBtu	\$ 0.5623 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.1206 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailement Overpull Fee

Upon notification by Company of an event of curtailement or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailement or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

Presumption of Plant Protection Level

For service under this Rate Schedule, plant protection volumes are presumed to be 10% of normal, regular, historical usage as reasonably calculated by the Company in its sole discretion. If a customer believes it needs to be modeled at an alternative plant protection volume, it should contact the company at mdtx-div-plantprotection@atmosenergy.com.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

This tariff is not available to customers with a maximum daily demand of 1,000 MMBtu or greater and a daily/annual load factor of 10% or less. Load factor is calculated as follows: annual usage / (maximum daily connected demand X 365). Load factors will be recalculated once each year to determine appropriate eligibility for Rate T.

Type of Service

Company's receipt and delivery of all gas quantities under the applicable Transportation Agreement will be on a wholly interruptible basis subject to the Terms and Conditions incorporated in the Transportation Agreement. If Customer is an Industrial Customer, then Customer may elect, at the reasonable discretion of Company, to contract for Plant Protection transportation quantities defined as the minimum natural gas required to prevent physical harm and/or protect critical safety to the plant facilities, plant personnel, or the public when such protection cannot be achieved through the use of an alternate fuel. Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 1,848.75 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.7678 per MMBtu
Next 3,500 MMBtu	\$ 0.5623 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.1206 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest “midpoint” price for the Katy point listed in *Platts Gas Daily* in the table entitled “Daily Price Survey” during such month, for the MMBtu of Customer’s monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer’s receipt quantities for the month.

Overpull Fee

Upon notification by Company of an event of interruption of Customer’s deliveries, Customer will, for each MMBtu delivered in excess of the stated level of interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled “Daily Price Survey.”

Replacement Index

In the event the “midpoint” or “common” price for the Katy point listed in *Platts Gas Daily* in the table entitled “Daily Price Survey” is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company’s Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	SUR – SURCHARGES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Application

This Rider is applicable to customer classes in the incorporated areas under the RRM tariff as authorized by the state or any governmental entity, a municipality, or a regulatory authority pursuant to any statute, ordinance, order, rule, contract, or agreement.

Monthly Calculation

Surcharges will be calculated in accordance with the applicable statute, ordinance, order, rule, contract, or agreement.

FASB ASC 740-10 (Fin48) Refund

Applicable to Customers taking service under Rate Schedules R – Residential, C – Commercial, I – Industrial and T – Transportation.

To ensure that gas utility customers receive the benefit associated with the changes in the Company’s Uncertain Tax Positions (“UTPs”) arising from recognition of Texas Margin Tax returns.

The decrease shall be calculated as follows:

Beginning with implementation of rates from the negotiated RRM Tariff, and annually thereafter, the portion of UTP liabilities identified in Schedule FIN48-1.1 for the prior fiscal year shall be allocated based on the final class allocations of GUD No. 10170 as per the RRM Tariff, divided by the annual bill count to derive rates to be refunded through Rider SUR in the subsequent fiscal year. Each year’s calculation will include a true-up (+ or -) due to account for over/under collections. Amounts identified in Schedule FIN48-1 shall be adjusted to reflect any audit adjustments received from the Texas Comptroller of Public Accounts.

No action on the part of the Regulatory Authority is required to give effect to the amount to be refunded to customers. However, any amount refunded to customers shall be fully subject to review for reasonableness and accuracy in the gas utility’s next statement of intent proceeding with the Railroad Commission of Texas, and if applicable, the gas utility shall be required to reconcile any discrepancies.

The following refund as authorized in the most recent negotiated RRM Tariff shall be refunded to each Rate Schedules R – Residential, C – Commercial, I – Industrial and T – Transportation customer’s monthly bill in each month for a 12-month period. The refund amount by month by Rate Schedule is shown in the table below:

Rate Schedules	Rate
Rate R – Residential Sales	\$ (0.12)
Rate C – Commercial Sales	\$ (0.41)
Rate I – Industrial Sales	\$ (8.68)
Rate T – Transportation	\$ (8.68)

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	TAX – TAX ADJUSTMENT	
APPLICABLE TO:	Entire Division as Set Forth Below	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	PAGE:

Application

Applicable to Customers taking service under Rate R, Rate C, Rate I, and Rate T, except for exempt State Agency Customers, to the extent of state gross receipts taxes only.

1. State Gross Receipts Taxes

Applicability - Entire Division except for Unincorporated Areas

Each monthly bill shall be adjusted for Miscellaneous state gross receipts taxes imposed by Sections 182-021 - 182-025 of the Texas Tax Code.

Entire Division

Each monthly bill shall also be adjusted by an amount equivalent to the amount of all applicable taxes and any other governmental impositions, rentals, fees, or charges (except state, county, city, and special district ad valorem taxes and taxes on net income) levied, assessed, or imposed upon or allocated to Company with respect to the Gas Service provided to Customer by Company, and any associated facilities involved in the performance of such Gas Service. Each monthly bill shall also be adjusted by an amount equivalent to the proportionate part of any increase or decrease of any tax and any other governmental imposition, rental, fee, or charge (except state, county, city, and special district ad valorem taxes and taxes on net income) levied, assessed, or imposed subsequent to the effective date of this tariff, upon or allocated to Company's operations, by any new or amended law, ordinance, or contract.

2. Federal or State Tax Law or Rate Changes:

Applicability – All Customers in the Mid-Tex Division (“MTX”) Under the RRM Tariff

Applicable to Customers taking service under Rate R, Rate C, Rate I, and Rate T.

To ensure that gas utility customers receive the benefits or costs associated with the changes in tax rates at a federal or state level, MTX shall establish and accrue on its books and records, as of the effective date of the federal or state tax law or rate change: 1) regulatory liabilities to reflect the impact of a decrease in federal corporate income tax rates or state margin tax rates; or, 2) regulatory assets to reflect the impact of an increase in federal corporate income tax rates or state margin tax rates.

The gas utility may not change rates to give effect to a change in Federal or State Tax law or rates through the Rider TAX unless and until the city issues final authorization, an Accounting Order, or other express guidance authorizing such recovery through the RRM process.

Company may also not change rates to capture the impacts associated with the effects of Public Law 117-169, 136 STAT. 1818 of August 16, 2022 (“Tax Act 2022”) and certain other tax-related costs that will change from the amounts included in the most recent base revenue requirement established through an RRM filing unless and until the city issues a final authorization, an Accounting Order, or other express guidance authorizing such recovery.

Upon receipt of authorization from the city through an Accounting Order, final authorization or other express guidance, the calculation applicable to the aforementioned federal or state tax rate or law changes are as follows; however, to the extent there is a conflict between the calculation or methodology

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	TAX – TAX ADJUSTMENT	
APPLICABLE TO:	Entire Division as Set Forth Below	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	PAGE:

prescribed by an Accounting Order, final authorization, or other express guidance, and those contained in this rate schedule, the Accounting Order, final authorization, or other express guidance controls:

Calculations

1. With regard to changes in the tax rates at a federal or state level, the increase or decrease shall be calculated as follows:
 - a. A portion of the gas utility’s revenue representing the difference between: 1) the cost of service as approved by the Commission or the applicable regulatory authority in the gas utility’s most recent statement of intent or other rate proceeding, and 2) the cost of service that would have resulted had the rates been based on the new federal income tax rate (increase or decrease) or state margin taxes (increase or decrease), as of the effective date of the change;
 - b. If applicable, the portion of the gas utility’s revenue representing the difference between: 1) each Interim Rate Adjustment surcharge approved by the regulatory authority since the gas utility’s most recent statement of intent or other rate proceeding, and 2) each Interim Rate Adjustment surcharge that would have resulted had the surcharges been based on the new federal income tax rate (increase or decrease) or state margin taxes (increase or decrease), as of the effective date of the change; and
 - c. The excess or deficient deferred tax reserve, including any associated gross up in taxes, caused by the reduction or increase in the federal corporate income tax rate or state related tax increases, as of the effective date of the change.

Upon the receipt of authorization from the Commission or applicable regulatory authority, the gas utility shall separately refund to customers based on a decrease in federal or state tax rates or separately collect from customers based on an increase in federal or state tax rates within twelve (12) months or, pursuant to applicable Internal Revenue Code (“IRC”) rules and regulations, as follows:

- d. The amount collected/refunded by the gas utility that reflects the difference in base rates between: 1) the cost of service approved by the regulatory authority in the gas utility’s most recent statement of intent rate proceeding, and 2) the cost of service that would have resulted had the rates been based upon the new federal or state tax rates, between the effective date of this order and the effective date of the changes.
- e. If applicable, the amount collected/refunded by the gas utility that reflects the difference between: 1) each Interim Rate Adjustment surcharge approved by the Commission or the regulatory authority since the gas utility’s most recent statement of intent rate proceeding, and 2) each Interim Rate Adjustment surcharge that would have resulted had the rates been based upon the new federal or state tax rates, between the effective date of this order and the effective date of the changes.
- f. The amount collected/refunded by the gas utility that reflects the difference in the excess or deficient deferred tax reserve included in base rates between: 1) the cost of service approved by the Commission or the regulatory authority in the gas utility’s most recent statement of intent rate proceeding, and 2) the cost of service that would have resulted had the rates been based upon the new federal or state tax rates, between the effective date of this order and the effective date of the changes. These amounts shall be refunded or collected from customers based upon IRC rules and regulations if applicable.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	TAX – TAX ADJUSTMENT	
APPLICABLE TO:	Entire Division as Set Forth Below	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	PAGE:

2. With regard to the Tax Act 2022 and certain other tax-related costs that will change from the amounts included in the base revenue requirement established through an RRM filing, any change in rates shall be calculated as follows:

- (a) The amount shall be calculated as the product of Company’s grossed-up rate of return authorized in the cost of service as approved by the Commission or the applicable regulatory authority in the gas utility’s most recent statement of intent or other rate proceeding times the Corporate Alternative Minimum Tax deferred tax asset (“CAMT DTA”) estimated at September 30 of the fiscal year or applicable quarter-end within a fiscal year prior to the annual change in the rates pursuant to this tariff, less the income tax credits received in accordance with IRC requirements applicable to the Tax Act 2022 grossed-up for income taxes to a revenue equivalent.
- (b) The estimated CAMT DTA and the related effects on the rider revenue requirements shall be trued up to the actual effects in the following year and the over/under recovery amortized over the twelve months that each year’s recalculated tariff rates are in effect. The over/under recovery shall include a grossed-up rate of return as authorized in Company’s most recent statement of intent or other rate proceeding.
- (c) The methodology for computing Company’s CAMT is as follows:
 - i. Confirm when Atmos Energy Corporation and its affiliates are subject to CAMT as an “applicable corporation” as defined the Tax Act 2022, then there will be MTX’s CAMT DTA in the tariff.
 - ii. Calculate the Mid-Tex Division’s (MTX) contribution to Adjusted Financial Statement Income (“AFSI”) on a stand-alone basis. MTX’s AFSI is calculated by adjusting MTX’s applicable financial statement income by adjustments to depreciation, pension costs and federal income tax to arrive at AFSI. AFSI is intended to be computed consistent with applicable IRC requirements.
 - iii. Compare MTX’s CAMT stand-alone amount with MTX’s regular stand-alone tax liability. If the stand alone CAMT is in excess of the stand-alone regular tax, the CAMT DTA is recorded to MTX.

If the Internal Revenue Service issues new guidance related to the Tax Act 2022, Company shall have the right to make additional filings to recognize such adjustments.

Any Commission filing made to give effect to Federal or State Tax Law or Rate Changes shall be filed within 12-months following the enactment of a tax rate change with the Commission’s Oversight and Safety Division or as part of a Statement of Intent.

Any city filing made to give effect to Federal or State Tax Law or Rate Changes shall be filed within 12-months following the enactment of a tax rate change and addressed to the city official at the address of record with the Mid-Tex Division.

With the exception of the authorization required from the Commission to allow the gas utility to recognize the new federal income tax rate (increase or decrease) or state taxes (increase or decrease) or the impacts associated with the effects of the Tax Act 2022 and certain other tax-related costs that will change from the amounts included in the base revenue requirement in the last approved RRM Tariff filing, no action on the part of the regulatory authority is required to give effect to the amount to be refunded or

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	TAX – TAX ADJUSTMENT	
APPLICABLE TO:	Entire Division as Set Forth Below	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	PAGE:

collected from customers. However, any amount refunded or collected from customers shall be fully subject to review for reasonableness and accuracy in the gas utility's next statement of intent proceeding, and if applicable, the gas utility shall be required to reconcile any discrepancies.

Regulatory orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007). Rate changes subject to the provisions of this tariff may be implemented upon the filing of an appeal to the relevant authority.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

Where

- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
- $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
- R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
- HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
- NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
- ADD = billing cycle actual heating degree days.
- BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_i = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

**MID-TEX DIVISION
ATMOS ENERGY CORPORATION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION UNDER THE RRM TARIFF	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2025	

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	9.61	0.1476	91.65	0.7406
Austin	8.19	0.1394	183.99	1.1581
Dallas	12.74	0.2017	193.53	1.1001
Waco	9.23	0.1277	148.26	0.7631
Wichita Falls	10.43	0.1387	122.94	0.7038

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at www.atmosenergy.com/MTXtariffs, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNAs factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and an Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

**ATMOS ENERGY CORP., MID-TEX DIVISION
MID-TEX RATE REVIEW MECHANISM
PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
TEST YEAR ENDING DECEMBER 31, 2024**

Line No.	Description	Shared Services		Mid-Tex Direct			Adjustment Total
		Pension Account Plan	Post-Employment Benefit Plan	Pension Account Plan	Post-Employment Benefit Plan	Supplemental Executive Benefit Plan	
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1	Proposed Benefits Benchmark - Fiscal Year 2025 Willis Towers Watson Report as adjusted	\$ 572,372	\$ (649,253)	\$ 882,931	\$ (3,920,499)	\$ 65,943	
2	Allocation Factor	46.27%	46.27%	84.14%	84.14%	100.00%	
3	Proposed Benefits Benchmark Costs Allocated to Mid-Tex (Ln 1 x Ln 2)	\$ 264,856	\$ (300,432)	\$ 742,888	\$ (3,298,664)	\$ 65,943	
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%	
5	Proposed Benefits Benchmark Costs to Approve (Ln 3 x Ln 4)	\$ 264,856	\$ (300,432)	\$ 742,888	\$ (3,298,664)	\$ 65,943	\$ (2,525,408)
6							
7	O&M Expense Factor	76.41%	76.41%	39.54%	39.54%	10.97%	
8							
9	Summary of Costs to Approve:						
10	Total Pension Account Plan	\$ 202,374		\$ 293,727			\$ 496,101
11	Total Post-Employment Benefit Plan		\$ (229,557)		\$ (1,304,242)		(1,533,799)
12	Total Supplemental Executive Benefit Plan					\$ 7,231	7,231
13	Total (Ln 10 + Ln 11 + Ln 12)	\$ 202,374	\$ (229,557)	\$ 293,727	\$ (1,304,242)	\$ 7,231	\$ (1,030,467)

**ATMOS ENERGY CORP., MID-TEX DIVISION
MID-TEX RATE REVIEW MECHANISM
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2024**

Line No.	Description	Average Volumes	Current Rates	Proposed Rates	Current Average Bill	Proposed Average Bill	Amount Change	Percent Change
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Rate R @ 42.1 Ccf							
2	Base Rates:							
3	Customer Charge		\$ 22.95	\$ 23.65	\$ 22.95	\$ 23.65	\$ 0.70	
4	Consumption Charge (Ccf)	42.1	\$ 0.58974	\$ 0.74748	24.80	31.44	6.64	
5	Total Base Rates				<u>\$ 47.75</u>	<u>\$ 55.09</u>	<u>\$ 7.34</u>	15.37%
6								
7	Gas Cost:							
8	Rider GCR Part A (Ccf)	42.1	\$ 0.20875	\$ 0.20875	\$ 8.78	\$ 8.78	\$ -	
9	Rider GCR Part B (Ccf)	42.1	\$ 0.53838	\$ 0.53838	22.64	22.64	-	
10	Total Gas Cost				<u>\$ 31.42</u>	<u>\$ 31.42</u>	<u>\$ -</u>	0.00%
11								
12	Total Base with Gas Cost				\$ 79.17	\$ 86.51	\$ 7.34	
13	Rider FF & Rider TAX		0.06725	0.06725	5.32	5.82	0.49	9.27%
14								
15	Total Residential Average Bill				<u>\$ 84.49</u>	<u>\$ 92.33</u>	<u>\$ 7.83</u>	<u>9.27%</u>
16								
17	Rate C @ 367.6 Ccf							
18	Base Rates:							
19	Customer Charge		\$ 81.75	\$ 94.00	\$ 81.75	\$ 94.00	\$ 12.25	
20	Consumption Charge (Ccf)	367.6	\$ 0.19033	\$ 0.22261	69.97	81.83	11.86	
21	Total Base Rates				<u>\$ 151.72</u>	<u>\$ 175.83</u>	<u>\$ 24.11</u>	15.89%
22								
23	Gas Cost:							
24	Rider GCR Part A	367.6	\$ 0.20875	\$ 0.20875	\$ 76.74	\$ 76.74	\$ -	
25	Rider GCR Part B	367.6	\$ 0.37860	\$ 0.37860	139.18	139.18	-	
26	Total Gas Cost				<u>\$ 215.92</u>	<u>\$ 215.92</u>	<u>\$ -</u>	0.00%
27								
28	Total Base with Gas Cost				\$ 367.64	\$ 391.75	\$ 24.11	
29	Rider FF & Rider TAX		0.06725	0.06725	24.72	26.35	1.62	6.56%
30								
31	Total Commercial Average Bill				<u>\$ 392.36</u>	<u>\$ 418.10</u>	<u>\$ 25.73</u>	<u>6.56%</u>
32								

**ATMOS ENERGY CORP., MID-TEX DIVISION
MID-TEX RATE REVIEW MECHANISM
AVERAGE BILL COMPARISON - BASE RATES
TEST YEAR ENDING DECEMBER 31, 2024**

Line No.	Description	Average Volumes	Current Rates	Proposed Rates	Current Average Bill	Proposed Average Bill	Amount Change	Percent Change
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
33	<u>Rate I at 1277 MMBTU</u>							
34	Base Rates:							
35	Customer Charge		\$1,587.75	\$ 1,848.75	\$ 1,587.75	\$ 1,848.75	\$ 261.00	
36	Block 1 - Consumption Charge (MMBtu)	1,277	\$ 0.6553	\$ 0.7678	836.99	980.69	143.69	
37	Block 2 - Consumption Charge (MMBtu)	-	\$ 0.4799	\$ 0.5623	-	-	-	
38	Block 3 - Consumption Charge (MMBtu)	-	\$ 0.1029	\$ 0.1206	-	-	-	
39	Total Base Rates	<u>1,277</u>			<u>\$ 2,424.74</u>	<u>\$ 2,829.44</u>	<u>\$ 404.69</u>	16.69%
40								
41	Gas Cost:							
42	Rider GCR Part A (MMBtu)	1,277	\$ 2.07711	\$ 2.07711	\$ 2,653.03	\$ 2,653.03	\$ -	
43	Rider GCR Part B (MMBtu)	1,277	\$ 0.88986	\$ 0.88986	1,136.59	1,136.59	-	
44	Total Gas Cost				<u>\$ 3,789.63</u>	<u>\$ 3,789.63</u>	<u>\$ -</u>	0.00%
45								
46	Total Base with Gas Cost				\$ 6,214.37	\$ 6,619.07	\$ 404.69	
47	Rider FF and Rider TAX		0.06725	0.06725	417.92	445.14	27.22	6.51%
48								
49	Total Industrial Average Bill				<u>\$ 6,632.29</u>	<u>\$ 7,064.20</u>	<u>\$ 431.91</u>	<u>6.51%</u>
50								
51	<u>Rate T at 4534 MMBTU</u>							
52	Base Rates:							
53	Customer Charge		\$1,587.75	\$ 1,848.75	\$ 1,587.75	\$ 1,848.75	\$ 261.00	
54	Block 1 - Consumption Charge (MMBtu)	1,500	\$ 0.6553	\$ 0.7678	982.95	1,151.70	168.75	
55	Block 2 - Consumption Charge (MMBtu)	3,034	\$ 0.4799	\$ 0.5623	1,456.19	1,706.22	250.03	
56	Block 3 - Consumption Charge (MMBtu)	-	\$ 0.1029	\$ 0.1206	-	-	-	
57	Total Base Rates	<u>4,534</u>			<u>\$ 4,026.89</u>	<u>\$ 4,706.67</u>	<u>\$ 679.78</u>	16.88%
58								
59	Gas Cost:							
60	Rider GCR Part B (MMBtu)	4,534	\$ 0.88986	\$ 0.88986	\$ 4,034.96	\$ 4,034.96	\$ -	
61	Total Gas Cost				<u>\$ 4,034.96</u>	<u>\$ 4,034.96</u>	<u>\$ -</u>	0.00%
62								
63	Total Base with Gas Cost				\$ 8,061.85	\$ 8,741.63	\$ 679.78	
64	Rider FF and Rider TAX		0.06725	0.06725	542.17	587.88	45.72	8.43%
65								
66	Total Transportation Average Bill				<u>\$ 8,604.01</u>	<u>\$ 9,329.51</u>	<u>\$ 725.50</u>	<u>8.43%</u>



Legislation Text

File #: ID 24-2622, Version: 1

AGENDA CAPTION

Hold a public hearing and receive citizen input on the FY 2025-26 Proposed Budget.

TAXPAYER IMPACT STATEMENT

FISCAL YEAR 2025-26

This taxpayer impact statement is required by Government Code § 551.043(c) to be posted on the notice of a meeting at which a governmental body will discuss or adopt a budget for the governmental body.

This Taxpayer Impact Statement shows the median-value homestead property in the City of Denton, a comparison of the property tax bill in dollars pertaining to the property for the current fiscal year to an estimate of the property tax bill in dollars for the same property for the upcoming fiscal year.

Taxpayer Impact Statement	FY 2025	FY 2026 Adopted	FY 2026 No-New-Revenue
Proposed			Tax Rate
Total tax rate (per \$100 of value)	\$0.585420	\$0.554279	\$0.595420
Median homestead taxable value	\$379,836	\$386,698	\$386,698
Tax on average homestead	\$2,223.64	\$2,143.39	\$2,302.48
Difference to Current Year Tax Bill		(\$80.25)	\$78.84



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Finance
ACM: Christine Taylor
DATE: September 9, 2025

SUBJECT

Hold a public hearing and receive citizen input on the FY 2025-26 Proposed Budget.

BACKGROUND

The City Charter and State Law require that prior to budget adoption, a public hearing be conducted to allow citizens the opportunity to provide input on the Proposed Budget. The required notice of the public hearing was published August 30, 2025 in the *Denton Record Chronicle*. The notice was also posted on the City's Web site, and on the City's public access channel. A copy of the published notice is provided for reference in Exhibit 2.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On August 9, 2025, the City Council was provided with detailed information regarding the FY 2025-26 Proposed Budget including the proposed tax rate. Additional budget presentations were given to City Council on August 19, 2025 and September 9, 2025.

FISCAL INFORMATION

The 2025-26 Proposed Budget includes \$2,551,200,633 in budgeted expenditures.

EXHIBITS

Exhibit 1 - Agenda Information Sheet
Exhibit 2 - 2025 Notice of Budget Hearing
Exhibit 3 - Presentation

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance
(940) 349-8127

NOTICE OF PUBLIC HEARING ON BUDGET

The City Council for the City of Denton, Texas, will hold a public hearing on the Fiscal Year 2025-26 Annual Program of Services (“Budget”), on Tuesday, September 9, 2025 at 6:30 p.m. in the City Council Chambers at City Hall, located at 215 East McKinney Street in Denton, Texas, 76201. The meeting will be held for the purpose of receiving community input on the Budget. A public meeting to vote on the Budget will be held on September 16, 2025 at 6:30pm at Denton City Hall 215 E. McKinney Street Denton, TX 76201.

THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR’S BUDGET BY \$9,082,690 OR 7.6% AND OF THAT AMOUNT \$3,630,104 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR.

All interested citizens are encouraged to attend and express their views. If members of the public are not able to attend the hearings and meetings mentioned above in-person, members of the public will be able to participate in the meetings pursuant to the processes outlined at <https://www.cityofdenton.com/242/Public-Meetings-Agendas>

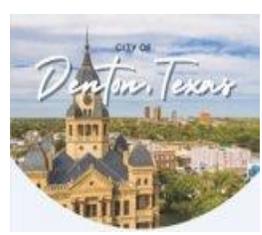


CITY OF

Denton, Texas

FY 2025-26 Proposed Budget Hearing

September 9, 2025



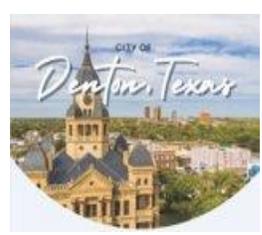
Fiscal Year 2025-26

Property Tax Rate

City Manager's Proposed Tax Rate

Maintenance & Operation	\$0.334780 / \$100	(unchanged)
Debt Service	\$0.260640 / \$100	(increase \$0.01)
Total Proposed Tax Rate	\$0.595420 / \$100	

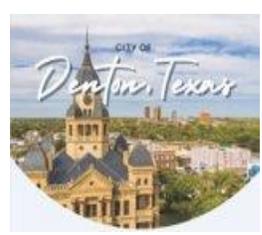
No New Revenue Rate	\$0.554279 / \$100
Published Max Tax Rate	\$0.605420 / \$100
Voter Approval Rate	\$0.610157 / \$100



Fiscal Year 2025-26

General Fund - Revenues

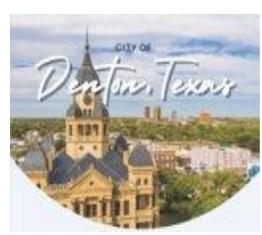
	2023-24 ACTUALS	2024-25 ESTIMATES	2025-2026 PROPOSED	FY 2026-27 PROJECTED	FY 2027-28 PROJECTED	FY 2028-29 PROJECTED	FY 2029-30 PROJECTED
Beginning Fund Balance	\$ 44,749,871	\$ 42,353,136	\$ 42,508,217	\$ 42,508,217	\$ 44,646,467	\$ 49,182,379	\$ 53,758,009
Property Tax	66,281,546	67,804,582	72,012,306	74,172,675	76,397,856	77,925,813	79,484,329
Sales Tax	57,074,842	60,164,000	62,944,986	64,833,336	66,778,336	68,113,903	69,476,181
Other Taxes	566,827	502,136	566,134	583,118	600,611	612,623	624,876
Licenses and Permits	5,561,811	6,956,839	6,846,632	7,052,031	7,263,592	7,408,864	7,557,042
Franchise Fees & ROI	17,534,987	24,679,488	32,194,374	33,160,205	34,155,011	34,838,112	35,534,874
Fines and Fees	2,525,000	2,527,452	2,528,462	2,604,316	2,682,446	2,736,095	2,790,817
Service Fees	12,420,160	13,020,436	12,866,937	13,252,945	13,650,534	13,923,544	14,202,015
Investment Income	3,567,673	2,742,602	2,618,775	2,697,338	2,778,258	2,833,824	2,890,500
Intergovernmental Revenue	3,530,952	3,169,666	3,571,740	3,678,892	3,789,259	3,865,044	3,942,345
Other Revenues	688,630	422,332	719,846	741,442	763,685	778,959	794,538
Transfers	16,903,268	20,710,051	21,954,773	22,613,416	23,291,819	23,757,655	24,232,808
Total Revenue	\$ 186,655,696	\$ 202,699,585	\$ 218,824,966	\$ 225,389,715	\$ 232,151,406	\$ 236,794,435	\$ 241,530,323



Fiscal Year 2025-26

General Fund - Expenditures

	2023-24 ACTUALS	2024-25 ESTIMATES	2025-26 PROPOSED	FY 2026-27 PROJECTED	FY 2027-28 PROJECTED	FY 2028-29 PROJECTED	FY 2029-30 PROJECTED
Personnel Services	\$ 132,516,995	\$ 142,946,395	\$ 151,582,811	\$ 154,614,467	\$ 157,706,757	\$ 160,860,892	\$ 164,078,110
Materials & Supplies	4,066,883	4,442,079	4,617,746	4,710,101	4,804,303	4,900,389	4,998,397
Maintenance & Repair	1,926,679	2,128,311	2,349,279	2,396,265	2,444,190	2,493,074	2,542,935
Insurance	3,920,723	4,521,766	3,868,485	3,945,855	4,024,772	4,105,267	4,187,373
Miscellaneous	2,820,794	3,044,578	2,503,462	2,553,531	2,604,602	2,656,694	2,709,828
Operations	23,326,252	20,340,778	25,386,802	25,894,538	26,412,429	26,940,677	27,479,491
Fixed Assets	661,455	467,371	477,588	487,140	496,883	506,820	516,957
Capital Transfers	1,062,502	1,451,450	1,063,450	1,084,719	1,106,413	1,128,542	1,151,112
Interfund Transfers	18,778,627	23,201,776	26,975,343	27,514,850	28,065,147	28,626,450	29,198,979
Total Expenditures	\$ 189,080,910	\$ 202,544,503	\$ 218,824,966	\$ 223,201,465	\$ 227,665,495	\$ 232,218,805	\$ 236,863,181
Ending Fund Balance	\$ 42,324,656	\$ 42,508,217	\$ 42,508,217	\$ 44,696,467	\$ 49,182,379	\$ 53,758,009	\$ 58,425,151
Change in Fund Balance	(2,425,215)	155,081	-	2,188,250	4,485,912	4,575,630	4,667,143
Fund Balance as % of Total Expenditures	22.38%	21.00%	19.43%	20.03%	21.60%	23.15%	24.70%

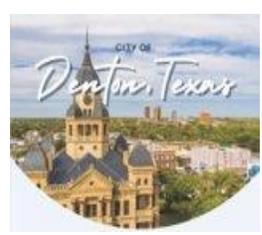


Fiscal Year 2025-26

Internal Service Funds

Internal Service Funds are used to account for the financing of goods or services provided by one department to another department within the same organization.

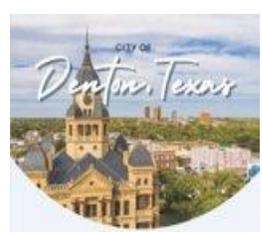
Fund Description	FY 2025 Adopted Budget	FY 2026 Proposed Budget
Customer Service Fund	\$ 11,965,917	\$ 11,873,598
Technology Services Fund	25,100,222	25,051,383
Materials Management Fund	20,890,460	20,934,363
Fleet Management Fund	17,797,472	18,663,445
Facilities Management Fund	8,418,765	8,459,548
Risk Management Fund	8,855,546	8,327,477
Engineering Services Fund	13,521,518	13,314,400
Environmental Services Fund	6,145,567	5,815,738
Total:	\$112,695,467	\$ 110,439,952



Fiscal Year 2025-26

Special Revenue Funds

Fund Description	FY 2025 Adopted Budget	FY 2026 Proposed Budget
McKenna Trust Fund	\$ 20,000	\$ 20,000
Park Land Dedication Trust Fund	1,000,000	1,000,000
Park Development Trust Fund	1,000,000	1,000,000
Downtown TIRZ	1,542,251	1,542,251
Westpark TIRZ	3,522,650	474,006
Sustainability Framework Fund	800,000	1,050,150
Donation Funds	227,500	280,500
Legends Municipal Utility District Fund	169,250	204,500
Tourism Public Improvement District Fund	1,103,385	1,203,334
Water Impact Fees Fund	1,635,340	1,732,674
Wastewater Impact Fees Fund	2,990,345	8,858,946
Health Insurance Fund	42,196,727	43,900,363
Tourist and Convention Fund	4,536,104	5,411,486
Street Improvement Fund	20,532,635	23,432,130
Catalyst Fund	1,150,000	2,150,000
Tree Fund	1,000,000	1,000,000
Total:	\$ 83,426,187	\$ 93,240,340

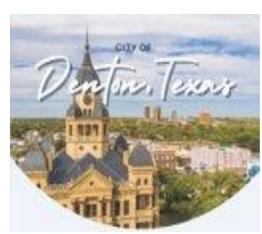


Fiscal Year 2025-26

Airport – 5 Year Forecast

	2023-24 Actuals	2024-25 Budget	2024-25 EOY Estimate	2025-26 Proposed	FY 2026-27 Projected	FY 2027-28 Projected	FY 2028-29 Projected	FY 2029-30 Projected
Beginning Fund Balance	\$ 3,284,052	\$ 3,098,380	\$ 3,215,342	\$ 3,194,840	\$ 3,194,840	\$ 4,228,366	\$ 4,399,758	\$ 4,557,209
Land Leases	870,328	800,331	1,082,581	1,335,139	1,355,166	1,375,494	1,396,126	1,417,068
Hangar Leases	157,065	170,400	171,375	199,800	199,800	199,800	199,800	199,800
Fuel Flowage Fees	288,979	260,000	234,974	300,000	300,000	300,000	300,000	300,000
FBO Hangar/Tiedown Commissions	328,238	275,000	300,986	300,000	309,000	318,270	327,818	337,653
Miscellaneous Revenues	10,390	2,000	89,018	40,250	41,458	42,701	43,982	45,302
Agriculture Leases	2,331	2,331	1,748	2,331	2,331	2,331	2,331	2,331
Gas Well Royalties & Leases	239,355	350,000	215,003	200,000	180,000	162,000	145,800	131,220
Other Revenue	345,696	196,509	319,486	207,896	1,152,939	295,986	307,983	319,005
Transfers From General Fund	-	-	-	-	-	-	-	-
Total Revenues	\$ 2,242,381	\$ 2,056,571	\$ 2,415,171	\$ 2,585,416	\$ 3,540,693	\$ 2,696,581	\$ 2,723,840	\$ 2,752,378
Use of Reserves	\$ 127,377	\$ 545,655	\$ 20,502	\$ -	\$ -	\$ -	\$ -	\$ -
Total Resources	\$ 2,369,758	\$ 2,602,226	\$ 2,435,673	\$ 2,585,416	\$ 3,540,693	\$ 2,696,581	\$ 2,723,840	\$ 2,752,378
Personnel Services	848,082	851,660	864,134	856,713	878,131	900,084	922,586	945,651
Materials & Supplies	12,770	23,720	16,685	9,700	9,894	10,092	10,294	10,500
Maintenance & Repair	8,868	60,100	15,120	33,550	34,221	34,905	35,604	36,316
Insurance	44,579	49,984	49,984	47,669	49,099	50,572	52,089	53,652
Operations	127,998	263,899	86,887	258,418	266,171	274,156	282,380	290,852
Cost of Service - General Fund	276,423	284,716	284,716	301,325	310,365	319,676	329,266	339,144
Cost of Service - Other	233,188	316,492	316,492	268,336	276,386	284,678	293,218	302,015
Transfer to Capital Projects	-	-	-	64,055	-	-	-	-
Debt Service	806,779	751,655	751,655	745,650	682,900	651,025	640,950	641,100
Subtotal Operating	2,358,685	2,602,226	2,385,673	2,585,416	2,507,166	2,525,187	2,566,387	2,619,228
Gas Well - Other	11,070	-	50,000	-	-	-	-	-
Total Expenditures	\$ 2,369,758	\$ 2,602,226	\$ 2,435,673	\$ 2,585,416	\$ 2,507,168	\$ 2,525,189	\$ 2,566,389	\$ 2,619,230
Ending Fund Balance	\$ 3,156,675	\$ 2,552,725	\$ 3,194,840	\$ 3,194,840	\$ 4,228,366	\$ 4,399,758	\$ 4,557,209	\$ 4,690,357
Change in Fund Balance	\$ (127,377)	\$ (545,655)	\$ (20,502)	\$ -	\$ 1,033,525	\$ 171,392	\$ 157,451	\$ 133,148
Fund Balance as % of Total Expenditures	133.21%	98.10%	131.17%	123.57%	168.65%	174.23%	177.57%	179.07%

Forecast includes mid-year rate increases approved by council during the current fiscal year.

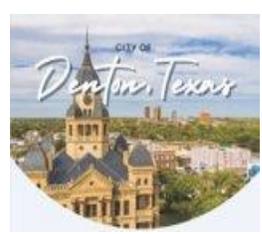


Fiscal Year 2025-26

Electric – 5 Year Forecast

	2023-24 Actuals	2024-25 Budget	2024-25 EOY Estimate	2025-26 Proposed	FY 2026-27 Projected	FY 2027-28 Projected	FY 2028-29 Projected	FY 2029-30 Projected
Beginning Fund Balance	\$ 99,845,101	\$ 114,148,221	\$ 112,128,803	\$ 110,368,104	\$ 127,416,893	\$ 152,997,168	\$ 187,932,173	\$ 236,044,858
Rate Revenues								
Base Rate Revenue	\$ 131,971,282	\$ 189,839,592	\$ 118,741,182	\$ 139,864,728	\$ 154,659,166	\$ 171,731,777	\$ 190,739,787	\$ 211,109,610
TCRF Revenue	10,751,806	30,286,099	23,853,789	51,111,143	58,591,788	61,521,377	64,597,446	67,827,318
ECA Revenue	67,333,794	86,122,202	80,382,787	233,486,208	295,481,390	344,575,738	345,527,465	340,758,721
Non-rate Revenue	40,224,302	31,880,385	39,612,888	35,578,131	36,645,475	37,744,839	38,877,184	40,043,500
DEC Revenue	19,621,032	52,674,627	53,357,473	65,690,445	66,069,624	65,214,984	63,814,594	62,977,501
Interfund Transfers	1,609,740	1,680,870	1,845,909	900,365	927,376	955,197	983,853	1,013,369
Total Revenue	\$ 271,511,955	\$ 392,483,775	\$ 317,794,028	\$ 526,631,020	\$ 612,374,818	\$ 681,743,912	\$ 704,540,330	\$ 723,730,018
Purchased Power	\$ 109,891,615	\$ 181,498,874	\$ 130,072,315	\$ 288,316,607	\$ 346,553,720	\$ 394,529,822	\$ 393,975,620	\$ 388,318,484
Transmission of Power	26,013,621	27,284,774	29,064,216	45,695,176	52,416,950	55,037,798	57,789,688	60,679,172
Personnel Services	24,660,768	29,214,928	24,916,278	29,473,911	30,358,129	31,268,872	32,206,939	33,173,147
Materials & Supplies	2,462,230	4,086,780	2,651,568	2,442,104	2,515,367	2,590,828	2,668,553	2,748,610
Maintenance & Repair	2,300,968	2,267,010	1,696,005	1,680,332	1,730,742	1,782,664	1,836,144	1,891,228
Insurance	1,947,434	4,475,159	1,524,402	1,453,738	1,497,350	1,542,271	1,588,539	1,636,195
Administrative Cost	22,845,793	33,120,822	21,897,726	34,480,288	39,673,263	43,688,998	45,268,492	46,648,496
Miscellaneous	1,434,746	1,049,100	1,023,590	1,031,615	1,062,563	1,094,440	1,127,274	1,161,092
Operations	9,831,688	13,465,119	8,659,927	12,279,294	12,647,673	13,027,103	13,417,916	13,820,454
Debt Service Transfers	69,300,914	76,159,518	76,693,095	71,913,276	75,357,668	78,667,360	82,354,168	79,951,386
Interfund Transfers	18,950,955	19,170,589	19,170,588	19,340,890	19,921,117	20,518,750	21,134,313	21,768,342
Transfers to Capital Projects	853,420	2,185,017	2,185,017	1,475,000	3,060,000	3,060,000	3,060,000	3,060,000
Total Expenditures	\$ 290,494,152	\$ 393,977,690	\$ 319,554,727	\$ 509,582,231	\$ 586,794,542	\$ 646,808,907	\$ 656,427,645	\$ 654,856,605
Ending Fund Balance	\$ 112,128,803	\$ 112,654,306	\$ 110,368,104	\$ 127,416,893	\$ 152,997,168	\$ 187,932,173	\$ 236,044,858	\$ 304,918,271
Change in Fund Balance (Use of Reserves)	\$ (18,982,196)	\$ (1,493,915)	\$ (1,760,699)	\$ 17,048,789	\$ 25,580,276	\$ 34,935,005	\$ 48,112,685	\$ 68,873,413
Rate Increases								
Base Rate				0.0%	6.5%	7.0%	7.0%	6.5%
Working Capital (8%) & Op Reserves (>38%)	\$ 133,627,310	\$ 181,229,737	\$ 146,995,174	\$ 234,407,826	\$ 269,925,489	\$ 297,532,097	\$ 301,956,717	\$ 301,234,038
Working Capital (8%) & Op Reserves (>61%)	\$ 200,440,965	\$ 271,844,606	\$ 220,492,762	\$ 351,611,739	\$ 404,888,234	\$ 446,298,146	\$ 452,935,075	\$ 451,851,058
Ending Fund Balance Minimum Target Met	NO	NO	NO	NO	NO	NO	NO	YES

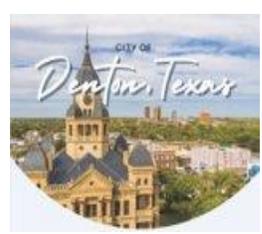
Debt Service Coverage Ratio (DSCR)	1.07	1.44	1.29	1.74	1.91	2.04	2.17	2.48
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Fiscal Year 2025-26

Solid Waste – 5 Year Forecast

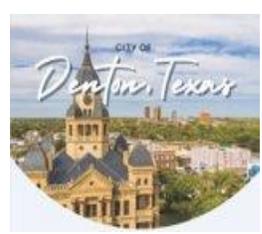
	2023-24 Actuals	2024-25 Budget	2024-25 EOY Estimate	2025-26 Proposed	FY 2026-27 Projected	FY 2027-28 Projected	FY 2028-29 Projected	FY 2029-30 Projected
Beginning Fund Balance	\$ 11,697,148	\$ 10,806,539	\$ 12,248,136	\$ 12,533,781	\$ 12,533,781	\$ 9,262,649	\$ 7,735,854	\$ 7,023,642
Resources								
Rate Revenues	\$ 34,815,307	\$ 35,754,289	\$ 35,170,571	\$ 37,972,656	\$ 40,089,632	\$ 42,324,629	\$ 43,594,367	\$ 44,902,198
Wholesale Agreements	4,005,845	5,296,940	5,296,940	5,521,140	5,521,140	5,521,140	5,521,140	5,521,140
Non-Rate Revenues	2,106,304	2,468,058	2,780,884	1,859,877	1,889,464	1,916,927	1,946,068	1,977,006
Use of Reserves	-	-	-	-	3,271,133	1,526,795	712,211	-
Total Resources	\$ 40,927,456	\$ 43,519,287	\$ 43,248,395	\$ 45,353,673	\$ 50,771,368	\$ 51,289,491	\$ 51,773,787	\$ 52,400,345
Expenditures								
Personnel Services	\$ 13,869,421	\$ 14,468,792	\$ 13,837,394	\$ 14,210,046	\$ 14,636,347	\$ 15,075,438	\$ 15,527,701	\$ 15,993,532
Materials & Supplies	511,714	748,667	508,566	509,831	525,126	540,880	557,106	573,819
Maintenance and Repair	223,662	260,266	286,685	247,035	254,446	262,079	269,942	278,040
Insurance	717,541	696,804	696,804	664,506	684,441	704,974	726,124	747,907
Miscellaneous Expense	33,061	43,320	40,419	33,085	34,078	35,100	36,153	37,237
Operations	8,048,133	7,810,415	8,363,044	8,511,170	8,766,505	9,029,500	9,300,385	9,579,397
Cost of Service Transfers	6,272,473	8,442,354	8,442,354	7,198,011	7,413,951	7,636,370	7,865,461	8,101,425
Fixed Assets	779,707	1,015,337	754,151	966,576	995,573	1,025,440	1,056,204	1,087,890
Vehicle Replacement	1,425,000	1,870,000	1,870,000	3,463,000	5,995,000	5,870,850	5,400,000	3,481,000
Revenue Funded Capital	1,627,707	-	-	-	-	-	-	-
Closure/Post Closure	752,628	752,631	752,631	946,819	1,256,748	1,334,760	1,417,174	1,504,220
Debt Service	4,775,075	5,269,872	5,269,872	6,417,619	7,957,598	7,454,998	7,228,864	7,146,077
Franchise Fees	2,003,512	2,140,829	2,140,829	2,185,975	2,251,554	2,319,101	2,388,674	2,460,334
Total Expenditures	41,039,634	43,519,287	42,962,750	45,353,673	50,771,368	51,289,491	51,773,787	50,990,879
Ending Fund Balance	\$ 11,584,970	\$ 10,806,539	\$ 12,533,781	\$ 12,533,781	\$ 9,262,649	\$ 7,735,854	\$ 7,023,642	\$ 8,433,108
Net Change	\$ (112,178)	\$ -	\$ 285,645	\$ 0	\$ (3,271,133)	\$ (1,526,795)	\$ (712,211)	\$ 1,409,466
Revenue Sufficiency Requirement	0.0%	0.0%	0.0%	0.0%	2.5%	2.5%	0.0%	0.0%
Target Reserves								
Wrking Cptl - 8% / Op Reserve Target - 6%	\$ 5,745,549	\$ 6,092,700	\$ 6,014,785	\$ 6,349,514	\$ 7,107,992	\$ 7,180,529	\$ 7,248,330	\$ 7,138,723
Wrking Cptl - 8% / Op Reserve Target - 10%	\$ 7,387,134	\$ 7,833,472	\$ 7,733,295	\$ 8,163,661	\$ 9,138,846	\$ 9,232,108	\$ 9,319,282	\$ 9,178,358
Ending Fund Balance Target Met	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes



Fiscal Year 2025-26

Water – 5 Year Forecast

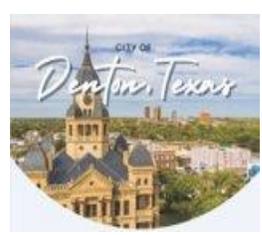
	2023-24 Actuals	2024-25 Budget	2024-25 EOY Estimate	2025-26 Proposed	FY 2026-27 Projected	FY 2027-28 Projected	FY 2028-29 Projected	FY 2029-30 Projected
Beginning Fund Balance	\$ 38,986,361	\$ 43,324,871	\$ 43,229,553	\$ 44,067,966	\$ 40,435,802	\$ 39,880,613	\$ 39,132,269	\$ 38,248,183
Rate Revenues								
Residential Water Sales	\$ 22,970,067	\$ 23,684,799	24,512,591	\$ 26,729,134	\$ 29,188,214	\$ 32,480,645	\$ 36,144,462	\$ 39,469,752
Commercial Water Sales	20,834,188	23,472,151	22,541,921	24,053,182	26,266,075	29,228,888	32,525,907	35,518,290
Wholesale - Raw Water	1,067,876	1,688,223	107,307	54,500	59,514	66,227	73,698	80,478
Wholesale - Treated Water	618,084	665,946	770,030	3,004,328	3,280,727	3,650,793	4,062,602	4,436,361
Non-Rate Revenues	1,187,674	1,093,820	1,281,765	1,277,070	1,325,213	1,395,122	1,469,913	1,528,292
Interfund Transfers	3,693,127	3,803,921	3,803,921	2,944,874	3,033,220	3,124,217	3,217,943	3,314,482
Interest Income	1,771,248	1,226,964	1,226,964	1,104,268	1,137,396	1,171,517	1,206,663	1,242,863
Total Revenue	\$ 52,142,264	\$ 55,635,824	\$ 54,244,499	\$ 59,167,356	\$ 64,290,359	\$ 71,117,409	\$ 78,701,187	\$ 85,590,518
Purchased Power	\$ 1,987,888	\$ 1,481,328	\$ 2,095,120	\$ 2,212,016	\$ 2,278,376	\$ 2,346,728	\$ 2,417,130	\$ 2,489,643
Purchased Water	1,776	3,000	2,000	2,060	2,122	2,185	2,251	2,319
Personnel Services	10,461,688	13,144,979	10,741,744	13,616,587	14,025,085	14,445,837	14,879,212	15,325,589
Materials and Supplies	3,202,244	4,781,574	3,608,387	4,739,332	4,881,512	5,024,253	5,174,981	5,330,230
Maintenance and Repair	2,874,264	1,868,402	2,291,813	2,882,140	2,968,604	3,057,662	3,149,392	3,243,874
Insurance	442,337	519,789	521,788	495,690	510,561	525,878	541,654	557,903
Administrative Cost	3,842,717	4,208,445	4,153,421	4,761,342	4,997,535	5,561,257	6,188,567	6,757,915
Miscellaneous Expense	54,932	112,865	55,091	55,288	55,447	55,610	55,778	55,952
Operations	2,921,092	3,963,028	2,667,919	4,281,631	4,410,080	4,542,382	4,678,654	4,819,013
Debt Service Transfers	11,771,059	14,571,614	15,699,435	18,537,125	20,015,810	25,351,157	31,234,424	36,110,628
Capital Transfers	2,234,857	430,562	430,562	1,332,500	524,000	475,000	475,000	475,000
Interfund Transfers	8,104,219	10,514,188	11,138,807	9,883,809	10,176,417	10,477,803	10,788,230	11,107,970
Total Expenditures	\$ 47,899,072	\$ 55,635,824	\$ 53,406,086	\$ 62,799,520	\$ 64,845,548	\$ 71,865,753	\$ 79,585,273	\$ 86,276,037
Ending Fund Balance	\$ 43,229,553	\$ 43,324,871	\$ 44,067,966	\$ 40,435,802	\$ 39,880,613	\$ 39,132,269	\$ 38,248,183	\$ 37,562,664
Change in Fund Balance (Use of Reserves)	\$ 4,243,191	\$ -	\$ 838,413	\$ (3,632,164)	\$ (555,189)	\$ (748,344)	\$ (884,086)	\$ (685,519)
Rate Increase – Residential & Commercial				3.0%	5.0%	7.0%	7.0%	5.0%
Rate Increase – Wholesale Treated Water				297.0%	5.0%	7.0%	7.0%	5.0%
Working Capital (8%) & Op Reserves (>25%)	\$ 15,806,694	\$ 18,359,822	\$ 17,624,008	\$ 20,723,842	\$ 21,399,031	\$ 23,715,698	\$ 26,263,140	\$ 28,471,092
Working Capital (8%) & Op Reserves (>42%)	\$ 23,949,536	\$ 27,817,912	\$ 26,703,043	\$ 31,399,760	\$ 32,422,774	\$ 35,932,877	\$ 39,792,637	\$ 43,138,018
Ending Fund Balance Minimum Target Met	YES	YES	YES	YES	YES	YES	YES	YES
Debt Service Coverage Ratio (DSCR)	1.88	1.32	1.35	1.13	1.25	1.21	1.19	1.18



Fiscal Year 2025-26

Wastewater & Drainage – 5 Year Forecast

	2023-24 Actuals	2024-25 Budget	2024-25 EOY Estimate	2025-26 Proposed	FY 2026-27 Projected	FY 2027-28 Projected	FY 2028-29 Projected	FY 2029-30 Projected
Beginning Fund Balance	\$ 18,245,883	\$ 16,861,672	\$ 18,925,173	19,227,728	\$ 18,292,723	\$ 18,866,392	\$ 19,429,504	\$ 21,003,499
Residential Sales	\$ 17,080,005	\$ 19,409,168	\$ 18,724,492	\$ 21,635,907	\$ 25,121,608	\$ 28,969,528	\$ 33,162,005	\$ 37,336,905
Commercial Sales	19,551,346	21,207,800	21,115,311	24,102,677	27,907,164	32,105,668	36,679,016	41,233,844
Watershed Inspection Fee	25,538	26,941	16,710	18,370	18,921	19,488	20,073	20,675
Non-Rate Revenues	4,091,650	3,605,976	3,812,431	3,889,010	4,005,681	4,121,250	4,240,287	4,362,894
Interest Income	643,509	523,269	523,269	470,942	485,070	499,622	514,611	530,049
Operating Transfers In	613,166	638,822	896,511	309,666	318,956	328,525	338,380	348,532
Total Revenue	\$ 42,005,214	\$ 45,411,976	\$ 45,088,723	\$ 50,426,572	\$ 57,857,400	\$ 66,044,082	\$ 74,954,372	\$ 83,832,900
Purchased Power	\$ 1,129,571	\$ 1,200,000	\$ 1,200,000	\$ 1,236,000	\$ 1,273,080	\$ 1,311,272	\$ 1,350,611	\$ 1,391,129
Fuel	25,822	21,000	31,142	35,000	36,050	37,132	38,245	39,393
Personnel Services	9,043,972	10,343,892	8,985,669	11,276,521	11,614,817	11,963,261	12,322,159	12,691,824
Materials and Supplies	1,907,652	2,134,500	2,083,673	2,718,756	2,800,319	2,884,328	2,970,858	3,059,984
Maintenance and Repair	2,926,467	2,819,872	2,375,649	2,674,362	2,754,593	2,837,231	2,922,348	3,010,018
Insurance	408,225	463,483	463,769	441,991	455,251	468,908	482,975	497,465
Administrative Cost	2,833,659	3,023,547	3,116,225	3,514,468	4,022,894	4,692,303	5,422,426	6,149,031
Miscellaneous Expense	10,970	26,098	20,562	10,513	10,828	11,153	11,488	11,832
Operations	2,283,535	2,285,264	1,952,364	3,076,792	3,169,096	3,264,169	3,362,094	3,462,957
Debt Service Transfers	8,656,914	9,785,287	10,193,589	9,663,658	15,322,426	21,801,605	27,890,779	33,969,143
Capital Transfers	2,549,050	1,924,995	2,729,298	4,664,157	3,367,187	3,383,302	3,399,901	3,416,998
Internal Transfers	9,550,087	11,634,227	11,634,227	12,049,360	12,457,191	12,826,306	13,206,494	13,598,088
Total Expenditures	\$ 41,325,924	\$ 45,662,165	\$ 44,786,168	\$ 51,361,578	\$ 57,283,731	\$ 65,480,970	\$ 73,380,377	\$ 81,297,861
Ending Fund Balance	\$ 18,925,173	\$ 16,611,483	\$ 19,227,728	\$ 18,292,723	\$ 18,866,392	\$ 19,429,504	\$ 21,003,499	\$ 23,538,538
Change in Fund Balance	\$ 679,290	\$ (250,189)	\$ 302,555	\$ (935,006)	\$ 573,669	\$ 563,112	\$ 1,573,995	\$ 2,535,039
Rate Increase - Residential (WW)				11.0%	9.0%	8.0%	7.0%	5.0%
Rate Increase - Commercial (WW)				11.0%	9.0%	8.0%	7.0%	5.0%
Working Capital (8%) & Op Reserves (>20%)	\$ 11,571,259	\$ 12,785,406	\$ 12,540,127	\$ 14,381,242	\$ 16,039,445	\$ 18,334,672	\$ 20,546,506	\$ 22,763,401
Working Capital (8%) & Op Reserves (>31%)	\$ 16,117,110	\$ 17,808,244	\$ 17,466,605	\$ 20,031,015	\$ 22,340,655	\$ 25,537,578	\$ 28,618,347	\$ 31,706,166
Ending Fund Balance Minimum Target Met	YES	YES	YES	YES	YES	YES	YES	YES
Debt Service Coverage Ratio (DSCR)	1.70	1.48	1.60	1.75	1.52	1.40	1.37	1.36



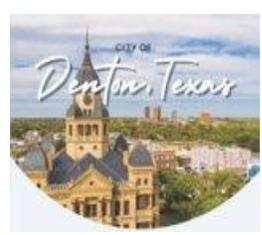
Fiscal Year 2025-26

Rate Change History

History of Rate Increases / (Decreases) Preliminary 2026 Rate Revenue Requirements

Utility	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Proposed FY 2026
Solid Waste	-12.00%	-12.00%	-5.00%	-	-	-	1.50%	0.00%
Electric*	-3.50%	-	-	-	-	3.00%	1.50%	0.00%
Water	-	-	-2.00%	-	-	-	3.00%	3.00%
Wastewater	-5.00%	-	-	-	-	11.00%	11.00%	11.00%
Drainage	-	-	-	-	-	-	-	0.00%

* Base Rate Only

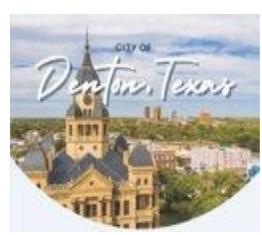


Fiscal Year 2025-26

Capital Improvement Program Summary

The FY 2026 Capital Improvement Program (CIP) includes \$552.8 million in planned new funding for FY 2026.

- \$127.0 million - General Government
- \$2.2 million - Airport
- \$64.0 million - Electric Utility
- \$94.9 million - Water Utility
- \$243.0 million - Wastewater Utility
- \$21.7 million - Solid Waste

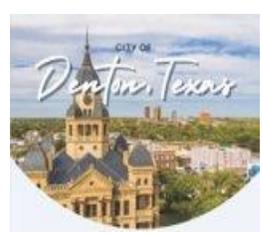


Fiscal Year 2025-26

General Government – 5 Year Capital Improvements

Projects	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
2023 Bond Election	\$ 44,223,000	\$ 69,927,000	\$ 51,000,000	\$ 48,475,000	\$ 16,430,000	\$ 230,055,000
Finance ERP Replacement	-	-	4,500,000	-	-	4,500,000
Service Center Renovation	-	-	15,000,000	25,000,000	5,000,000	45,000,000
Fire Station # 5	400,000	-	-	-	-	400,000
Fire Station # 6	1,100,000	-	-	-	-	1,100,000
Fire Station: Legends Ranch	-	500,000	15,000,000	-	-	15,500,000
Linda McNatt Animal Shelter	4,500,000	-	-	-	-	4,500,000
Facility Improvements	12,125,000	24,500,000	10,350,000	10,425,000	5,825,000	63,225,000
Parks Improvements	1,375,000	4,756,618	2,937,653	1,475,782	4,168,215	14,713,268
Fleet Management Improvements	500,000	-	-	-	-	500,000
Fleet Vehicle/Equipment Replacements	5,564,000	3,342,000	3,342,000	3,342,000	-	15,590,000
Technology Services Improvements	6,233,357	12,233,319	8,629,840	6,470,883	9,840,748	43,408,147
Traffic Improvements	6,458,000	7,658,000	7,658,000	7,658,000	7,658,000	37,090,000
Drainage Improvements	4,416,805	12,027,402	23,359,796	16,709,287	4,226,898	60,740,188
Roadway Improvements	32,875,473	36,513,165	40,250,000	22,916,667	19,133,333	151,688,638
Neighborhood Street Reconstruction	6,000,000	6,000,000	-	-	-	12,000,000
Bike Lanes	200,000	200,000	200,000	200,000	200,000	1,000,000
Parks & Aquatics Capital Improvements	1,058,000	1,227,791	1,052,193	889,310	986,097	5,213,391
	\$ 127,028,635	\$ 178,885,295	\$ 183,279,482	\$ 143,561,929	\$ 73,468,291	\$ 706,223,632

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
General Obligation Funds	44,223,000	69,927,000	51,000,000	48,475,000	16,430,000	230,055,000
Certificate of Obligation Funds	65,547,635	91,530,504	121,027,289	83,997,619	45,852,195	407,955,241
Other Funds (Revenue, Impact Fees, External Funding)	17,258,000	17,427,791	11,252,193	11,089,310	11,186,097	68,213,391
	\$ 127,028,635	\$ 178,885,295	\$ 183,279,482	\$ 143,561,929	\$ 73,468,291	\$ 706,223,632

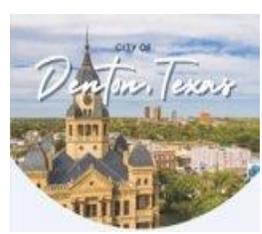


Fiscal Year 2025-26

Airport – 5 Year Capital Improvements

Projects	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Taxilane/Taxiway Design	\$ 950,000	\$ -	\$ -	\$ -	\$ -	\$ 950,000
Security Enhancements: Fencing, Gates, Cameras, and badge Readers.	200,000	-	-	-	-	200,000
Taxilane Reconstruction	1,000,000	2,275,000	-	-	-	3,275,000
Taxiway Alpha Design/Reconstruction	-	-	-	12,000,000	-	12,000,000
Taxiway Bravo Design/Reconstruction	-	-	-	-	8,000,000	8,000,000
Vehicle Replacements	40,000	40,000	-	-	-	80,000
Total	\$ 2,190,000	\$ 2,315,000	\$ -	\$ 12,000,000	\$ 8,000,000	\$ 24,505,000

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Debt Funding	\$ -	\$ -	\$ -	\$ 705,000	\$ 800,000	\$ 1,505,000
IIJA Funding	1,755,000	2,047,500	-	-	-	3,802,500
Existing Funding	435,000	267,500	-	495,000	-	1,197,500
TxDOT Funding	-	-	-	10,800,000	7,200,000	18,000,000
Total	\$ 2,190,000	\$ 2,315,000	\$ -	\$ 12,000,000	\$ 8,000,000	\$ 24,505,000

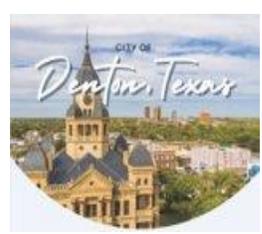


Fiscal Year 2025-26

Electric – 5 Year Capital Improvements

Projects	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Automated Meter Reading	\$ 1,805,000	\$ 1,940,2000	\$ 761,127	\$ 853,392	\$832,539	\$ 6,192,258
Distribution Substations	8,210,000	6,220,000	3,850,000	5,200,000	4,600,000	28,080,000
Distribution Transformers	10,000,000	11,000,000	12,000,000	13,000,000	14,000,000	60,000,000
Feeder Extensions & Improvements	11,075,338	12,389,159	9,603,808	6,519,336	9,785,797	49,323,437
New Residential & Commercial	8,315,250	8,431,013	8,552,563	8,670,255	9,788,912	43,757,993
Power Factor Improvement	300,000	150,000	100,000	100,000	100,000	750,000
Street Lighting	650,000	650,000	250,000	250,000	250,000	2,050,000
Plant Production	-	-	6,000,000	11,000,000	-	17,000,000
Technology – Software & Hardware	4,409,000	2,909,000	2,009,000	24,250,000	24,850,000	58,427,000
Transmission Lines	5,770,000	16,950,000	10,100,000	14,200,000	8,740,000	55,760,000
Transmission Substations	6,450,000	9,540,000	7,050,000	8,860,000	3,610,000	35,510,000
Electric Relocation	5,500,000	5,500,000	5,500,000	1,500,000	1,500,000	19,500,000
Vehicle Replacement	1,475,000	3,060,000	3,060,000	3,060,000	3,060,000	13,715,000
Total	\$ 63,959,588	\$ 78,739,372	\$ 68,836,498	\$ 97,462,983	\$ 81,117,247	\$ 390,115,688

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Debt Funding	\$ 58,434,588	\$ 58,079,372	\$ 51,476,498	\$ 88,002,983	\$ 77,657,247	\$ 333,650,688
Revenue Funding	1,475,000	3,060,000	3,060,000	3,060,000	3,060,000	13,715,000
Cost Participation	4,050,000	17,600,000	14,300,000	6,400,000	400,000	42,750,000
Total	\$ 63,959,588	\$ 78,739,372	\$ 68,836,498	\$ 97,462,983	\$ 81,117,247	\$ 390,115,688

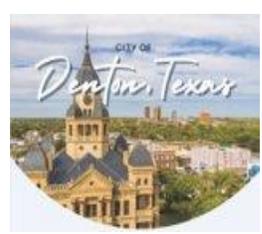


Fiscal Year 2025-26

Water – 5 Year Capital Improvements

Projects	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Booster Stations	\$ 1,200,000	-	-	-	-	\$ 1,200,000
Field Service Replacement	1,103,000	1,158,000	1,216,000	1,269,000	1,269,000	6,015,000
Facility Improvements	2,000,000	-	6,000,000	-	-	8,000,000
Oversize Lines	5,075,000	1,250,000	10,720,000	5,700,000	-	22,745,000
Replace Lines	10,200,000	4,000,000	4,000,000	4,000,000	4,000,000	26,200,000
Taps, Fire Hydrants, & Meters	11,280,000	10,392,000	412,000	430,000	446,000	22,960,000
Transmission Lines	27,828,000	34,200,000	3,200,000	2,200,000	2,200,000	69,628,000
Plant Improvements	34,905,000	74,300,000	113,900,000	60,000,000	2,750,000	285,855,000
Vehicle Replacement	1,082,500	524,000	475,000	475,000	475,000	3,031,500
Water/Wastewater Modeling	250,000	-	-	-	-	250,000
Total	\$ 94,923,500	\$ 125,824,000	\$ 139,923,000	\$ 74,074,000	\$ 11,140,000	\$ 445,884,500

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Debt Funding (includes TWDB)	\$ 55,651,541	\$ 88,701,855	\$ 112,975,809	\$ 58,837,881	\$ 5,719,445	\$ 321,886,530
WIFIA Funding	37,939,459	36,598,145	26,472,191	14,761,119	4,945,555	120,716,470
Revenue Funding	1,332,500	524,000	475,000	475,000	475,000	3,281,500
Total	\$ 94,923,500	\$ 125,824,000	\$ 139,923,000	\$ 74,074,000	\$ 11,140,000	\$ 445,884,500

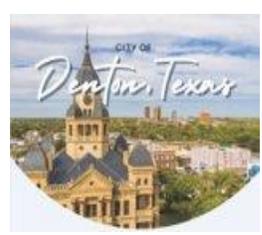


Fiscal Year 2025-26

Wastewater – 5 Year Capital Improvements

Projects	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Lift Station Improvements	\$ 28,350,000	\$ 19,700,000	\$ 8,450,000	\$ 450,000	\$ 500,000	\$ 57,450,000
Replace Lines	74,858,000	58,593,000	25,686,000	10,479,000	3,050,000	172,666,000
Collection System Upgrade	10,413,000	9,230,000	6,667,000	2,500,000	-	28,810,000
Facility Improvements	3,025,000	25,000	25,000	25,000	25,000	3,125,000
Oversize Lines	8,520,000	2,840,000	1,690,000	30,000	-	13,080,000
Taps, Fire Hydrants, & Meters	251,000	255,000	260,000	265,000	270,000	1,301,000
Plant Improvements	114,750,000	229,000,000	202,200,000	118,500,000	70,000,000	734,450,000
Vehicle Replacements	\$2,830,000	\$2,830,000	\$2,830,000	\$2,830,000	\$2,830,000	\$14,150,000
Total	\$ 242,997,000	\$ 322,473,000	\$ 247,808,000	\$ 135,079,000	\$ 76,675,000	\$ 1,025,032,000

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Debt Funding (includes TWDB)	\$ 141,892,454	\$ 182,425,214	\$ 129,790,601	\$ 67,446,990	\$ 37,660,950	\$ 559,216,210
WIFIA Funding	98,274,546	137,217,786	115,187,399	64,802,010	36,184,050	451,665,790
Revenue Funding	2,830,000	2,830,000	2,830,000	2,830,000	2,830,000	14,150,000
Total	\$ 242,997,000	\$ 322,473,000	\$ 247,808,000	\$ 135,079,000	\$ 76,675,000	\$ 1,025,032,000



Fiscal Year 2025-26

Solid Waste & Recycling – 5 Year Capital Improvements

Project	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Organics Program Infrastructure	\$ 14,000,000	\$ -	\$ -	\$ -	\$ -	\$ 14,000,000
Vehicle Replacement	7,264,000	5,095,000	5,220,850	5,400,000	-	22,979,850
Vehicle Additions	448,000	900,000	650,000	-	3,481,000	5,479,000
Concrete Replacement	-	-	350,000	-	-	350,000
Transfer Station Construction	-	-	-	5,000,000	-	5,000,000
Wastewater Infrastructure	-	-	-	-	500,000	500,000
Total	\$ 21,712,000	\$ 5,995,000	\$ 6,220,850	\$ 10,400,000	\$ 3,981,000	\$ 48,308,850

Funding Source	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Total
Debt Funding	\$ 18,249,000	\$ -	\$ 350,000	\$ 5,000,000	\$ 500,000	\$ 24,099,000
Revenue Funding	3,463,000	5,995,000	5,870,850	5,400,000	3,481,000	24,209,850
Total	\$ 21,712,000	\$ 5,995,000	\$ 6,220,850	\$ 10,400,000	\$ 3,981,000	\$ 48,308,850



Fiscal Year 2025-26

Discussion and Next Steps

Public Feedback Regarding the Proposed Budget

Next Steps:

- September 16, 2025: Budget & Tax Rate Adoption



City of Denton

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

Legislation Text

File #: ID 24-2623, **Version:** 1

AGENDA CAPTION

Hold a public hearing on proposed property tax increase that will not exceed \$0.605420 per \$100 valuation. The proposed rate will exceed the no new revenue tax rate (\$0.554279 per \$100) but will not exceed the voter-approval tax rate (\$0.610157 per \$100).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Finance
ACM/CFO: Christine Taylor
DATE: September 9, 2025

SUBJECT

Hold a public hearing on proposed property tax increase that will not exceed \$0.605420 per \$100 valuation. The proposed rate will exceed the no new revenue tax rate (\$0.554279 per \$100) but will not exceed the voter-approval tax rate (\$0.610157 per \$100).

BACKGROUND

The Texas Constitution and Texas Property Tax Code require taxing units to comply with specific guidelines in adopting tax rates. The guidelines are related to a concept known as truth-in-taxation. This concept is a way to make taxpayers aware of tax rate proposals and allow taxpayers in certain circumstances, to roll back or limit a tax increase.

The truth-in-taxation guidelines require taxing entities to calculate and publish their no-new revenue and voter approval tax rates (Exhibit 2 – 2025 Notice of Proposed Tax Rate). The no-new revenue rate is the calculated rate that would provide the taxing unit approximately the same amount of revenue it received in the previous year on properties taxed in both years. This rate is adjusted for new exemptions, value loss due to court appeals of taxable values and growth due to new property values. The City of Denton's 2025 no-new revenue rate is \$0.554279/\$100 valuation.

The voter approval rate divides the total property tax revenue into support for maintenance and operations (M&O) taxes and debt service taxes. It provides approximately the same amount of revenue as in the previous year for maintenance and operations expenses, plus an extra 3.5 percent, plus the necessary debt service tax rate. If a taxing unit adopts a tax rate higher than the voter approval rate, the voters have the option to petition for an election to limit the size of the tax increase. The City of Denton's 2025 voter approval rate is \$0.610157/\$100 valuation.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On August 9, 2025, the City Manager's proposed budget was presented to City Council. Additional budget presentations were given to City Council on August 19, 2025 and September 9, 2025.

EXHIBITS

Exhibit 1 - Agenda Information Sheet
Exhibit 2 - 2025 Notice of Proposed Tax Rate
Exhibit 3 - Presentation

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance
(940) 349-8127

NOTICE OF PUBLIC HEARING ON TAX RATE

A tax rate of \$0.605420 per \$100 valuation has been proposed for adoption by the governing body of the City of Denton.

PROPOSED TAX RATE	\$0.605420 per \$100
NO-NEW-REVENUE TAX RATE	\$0.554279 per \$100
VOTER-APPROVAL TAX RATE	\$0.610157 per \$100

The no-new-revenue rate is the tax rate for the 2025 tax year that will raise the same amount of property tax revenue for CITY OF DENTON from the same properties in both the 2024 and 2025 tax year.

The voter-approval rate is the highest tax rate that CITY OF DENTON may adopt without holding an election to seek voter approval of the rate.

The proposed tax rate is greater than the no-new-revenue tax rate. This means that CITY OF DENTON is proposing to increase property taxes for the 2025 tax year.

A PUBLIC HEARING ON THE PROPOSED TAX RATE WILL BE HELD ON SEPTEMBER 9, 2025 AT 6:30 PM AT DENTON CITY HALL 215 E. MCKINNEY STREET, DENTON, TX 76201.

A PUBLIC MEETING TO VOTE ON THE PROPOSED TAX RATE WILL BE HELD ON SEPTEMBER 16, 2025 AT 6:30 PM AT DENTON CITY HALL 215 E. MCKINNEY STREET, DENTON, TX 76201.

The proposed tax rate is not greater than the voter-approval tax rate. As a result, CITY OF DENTON is not required to hold an election at which voters may accept or reject the proposed tax rate. However, you may express your support or opposition to the proposed tax rate by contacting the members of the City of Denton at their offices or by attending the public hearing mentioned above.

YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS FOLLOWS:

$$\text{Property Tax amount} = (\text{tax rate}) \times (\text{taxable value of your property}) / 100$$

Names of all members of the governing body are below, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating absences.

	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:	_____	_____	_____	_____

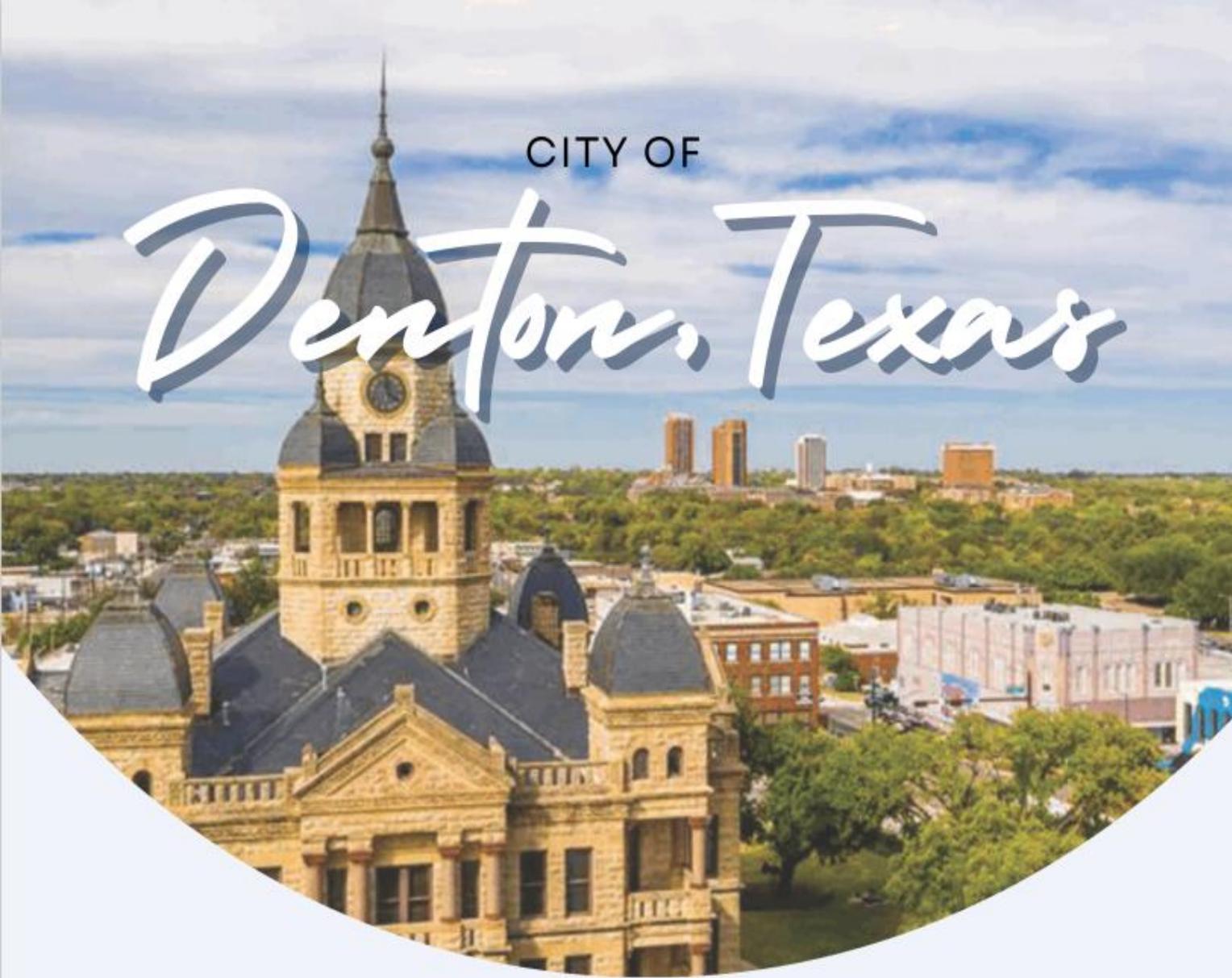
The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.

The following table compares the taxes imposed on the average residence homestead by the CITY OF DENTON last year to the taxes propose to be imposed on the average residence homestead by CITY OF DENTON this year.

	2024	2025	Change
Total tax rate (per \$100 of value)	\$0.585420	\$0.605420	Increase of \$0.02, or 3.4%
Average homestead taxable value	\$379,836	\$386,698	Increase of \$7,849, or 2.1%
Tax on average homestead	\$2,224	\$2,341	Increase of \$117, or 5.3%
Total tax levy on all properties	\$119,663,381	\$128,746,071	Increase of \$9,082,690, or 7.6%

For assistance with tax calculations, please contact the tax assessor for CITY OF DENTON at (940) 349-3500 or tnt@dentoncounty.gov, or visit tax.dentoncounty.gov for more information.

If members of the public are not able to attend the hearings and meetings mentioned above in person, members of the public will be able to participate in the meetings pursuant to the process outlined at <https://www.cityofdenton.com/242/Public-Meetings-Agendas>.

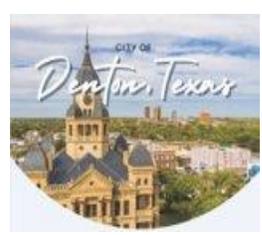


CITY OF

Denton, Texas

FY 2025-26 Proposed Tax Rate Hearing

September 09, 2025

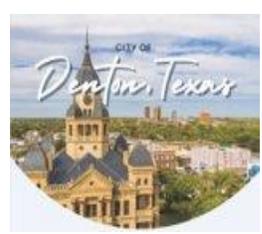


Fiscal Year 2025-26

Appraised Values

Tax Year	2019	2020	2021	2022	2023	2024	2025
Certified Value (\$Billions)	\$ 12.6	\$ 13.6	\$14.4	\$16.7	\$19.2	\$21.2	\$22.7
Value Change (\$Millions)	\$1,303	\$730	\$1,052	\$2,361	\$2,522	\$1,959	\$1,509
Percent Change	11.5%	6.0%	7.9%	16.4%	15.0%	10.2%	7.1%

- Total Certified Appraised Value is \$22.75 billion (excluding TIRZ)
 - 7.1% increase compared to 2024 certified value of \$21.24 billion
 - \$1.51 billion increase in value
 - \$0.60 billion in new value
 - \$0.91 billion from change in existing properties
- Excluding frozen values, taxable value is \$19.3 billion
- Average taxable home value increased from \$379,836 to \$386,698



Fiscal Year 2025-26

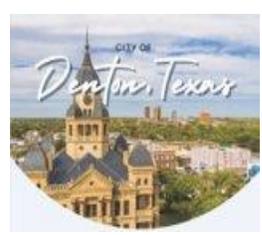
Assessed Values & Tax Rate History

Fiscal Year	Certified Assessed Value*	Operations & Maintenance Rate	Debt Service Rate	Total Tax Rate
2020-21	\$ 13,581,648,271	0.380364	0.210090	0.590454
2021-22	14,403,105,063	0.350444	0.215379	0.565823
2022-23	16,764,866,572	0.356432	0.204250	0.560682
2023-24	19,287,823,297	0.354780	0.205902	0.560682
2024-25	21,246,581,740	0.334780	0.250640	0.585420
2025-26	\$ 22,755,601,832	0.334780	0.260640	0.595420

Proposed Rate

* Excludes TIRZ, includes frozen values

- The proposed budget includes a tax rate equal to \$0.595420. Of this amount, \$0.334780 is provided to maintenance and operation expense and \$0.260640 for debt.
- The maintenance and operations rate is unchanged, and the debt service rate is proposed to increase by \$0.01.
- The average residential homestead is estimated to see a \$7/month or \$84/year increase in their City property taxes.



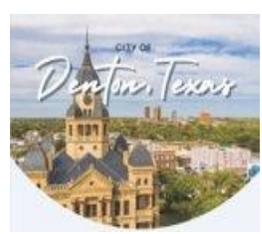
Fiscal Year 2025-26

Property Tax Rate

City Manager's Proposed Tax Rate

Maintenance & Operation	\$0.334780 / \$100	(unchanged)
Debt Service	\$0.260640 / \$100	(increase \$0.01)
Total Proposed Tax Rate	\$0.595420 / \$100	

No New Revenue Rate	\$0.554279 / \$100
Published Max Tax Rate	\$0.605420 / \$100
Voter Approval Rate	\$0.610157 / \$100



Fiscal Year 2025-26

Public Hearing and Next Steps

Receive Public Feedback on Proposed Tax Rate

Next Steps:

- September 16, 2025:
 - Budget & Tax Rate Adoption



City of Denton

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

Legislation Text

File #: ID 25-1498, **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 and lease agreement with Mayhill Renewables, LLC, to design, fabricate, construct, commission, and operate a Renewable Natural Gas (RNG) Facility to treat landfill and digester gas at the City of Denton Landfill for the Solid Waste and Water Utilities Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8465 - awarded to Mayhill Renewables, LLC, for a primary construction phase and twenty (20) year term). The Public Utilities Board recommends approval (5 - 0).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: September 9, 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 and lease agreement with Mayhill Renewables, LLC, to design, fabricate, construct, commission, and operate a Renewable Natural Gas (RNG) Facility to treat landfill and digester gas at the City of Denton Landfill for the Solid Waste and Water Utilities Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8465 – awarded to Mayhill Renewables, LLC, for a primary construction phase and twenty (20) year term). [The Public Utilities Board recommends approval \(5 - 0\).](#)

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Promote Sustainability and the Environment.

INFORMATION/BACKGROUND

In 2020, the City commissioned a study on possible Landfill Gas-to-Energy (LFGE) projects at the landfill, with the refinement of the gas into high-Btu fuel for export into a nearby natural gas pipeline owned by Atmos being the preferred option. The City, working with an outside consultant, developed a Request for Proposals (RFP) to identify an experienced, qualified company to design and construct an LFGE plan to clean the gathered landfill and treatment plant gas and sell it on the open market. The City will cost-share with the successful operator.

Additional biogas for this project will be provided for the project from the Pecan Creek Wastewater Treatment Plant (WWTP). This is a revenue-generating contract; the City shall receive an allocation of the Net Sales Revenue from the sale of Gas to Third Party Purchasers, subject to the terms and conditions.

Mayhill Renewables offered the best proposal and the highest price for One Million British Thermal Units (MMBtu) of Renewable Gas sold to a third party (Atmos Gas).

Project Facilities Construction Cost Recovery

Mayhill Renewables will assume wellfield operations about 6 months prior to the project coming online. Once onsite, they will complete a detailed evaluation of the wellfield and develop plans to bring the wellfield to their standards. Mayhill Renewables will complete a large wellfield construction effort that will include about 70 new wells with the goal of exceeding 90% efficiency and a flow of at least 2,500 standard cubic feet per minute (SCFM).

For the use of the approximately 1.7 acres of landfill, Mayhill Renewables will pay a monthly lease to the City.

Request for Proposals was sent to 485 prospective suppliers of this item, including 22 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Nine (9) proposals were received, references were checked, and proposals were evaluated based upon published criteria, including similar projects and references, project approach and schedule, qualifications and financial resources, and price. Based upon this evaluation, Mayhill Renewables, LLC was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	906 - (Service Only) - Architectural Services, Professional & 915 – (Service Only) – Communications & Media Related Services
Notifications sent for Solicitation sent in IonWave:	485
Number of Suppliers that viewed Solicitation in IonWave:	14
HUB-Historically Underutilized Business Invitations sent out:	67
SBE-Small Business Enterprise Invitations sent out:	160
Responses from Solicitation:	9

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 25, 2025, the Public Utilities Board (PUB) recommended this item to the City Council for consideration.

RECOMMENDATION

Award a contract with Mayhill Renewables, LLC, to design, fabricate, construct, commission, and operate a Renewable Natural Gas (RNG) Facility to treat landfill and digester gas at the City of Denton Landfill for the Solid Waste and Water Utilities Departments, in a twenty (20) year term.

PRINCIPAL PLACE OF BUSINESS

Mayhill Renewables, LLC
Midland, TX

SUSTAINABILITY MEASURES

Currently, to manage the landfill gas as required by Texas Commission on Environmental Quality regulations, all landfill gas is diverted to a flare station, then flared off (destroyed). The flare requires a major maintenance expense as well as the electrical need for mechanized components, resulting in a revenue loss.

Landfill gas can be considered an asset for the City of Denton, as it produces a financial profit. This asset is being protected and utilized efficiently. Many advantages are gained by producing a clean, reusable landfill gas.

Air quality is improved by not producing possible gas emissions, therefore minimizing greenhouse gas emissions. Gaining a financial profit is advantageous versus losing this byproduct by destruction is a sensible alternative.

All governing and operating permits will be secured by Mayhill Renewables, LLC. to ensure all environmental needs are met. Mayhill Renewables can provide and maintain a software program or website for the project to share information, manage documents, and publish reports and information to keep all those involved informed on all aspects of the project.

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval. A timeline will be provided by Mayhill Renewables for the development and construction, and then the operations aspect of the project. This is a twenty (20) year contract with options to terminate by either party.

FISCAL INFORMATION

This is a revenue-generating contract; the City shall receive an allocation of the Net Sales Revenue from the sale of Landfill Gas to Third Party Purchasers.

EXHIBITS

- Exhibit 1: Agenda Information Sheet
- Exhibit 2: Pricing Evaluation
- Exhibit 3: Lease Agreement
- Exhibit 4: Presentation
- Exhibit 5: Ordinance and Contract

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

For information concerning this acquisition, contact: Brenda Haney, 940-349-8056.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8465 - Pricing Evaluation for Landfill Gas to Energy Project

Solicitation Scores										
Respondent's Business Name		Mayhill Renewables, LLC	Morrow Renewables	Vitol BioMethane	Waga Energy, Inc.	Kinder Morgan RNG	Hunt, Guillot & Associates, LLC	Redtail Renewables Holding, LLC	Terreva Renewables, LLC	Northern Biogas
Principal Place of Business (City and State):		Midland, TX	McKinney, TX	Houston, TX	Bala Cynwyd, PA	Indianapolis, IN	Ruston, LA	Indianapolis, IN	Atlanta, GA	Morgantown, WV
Item #	Standard Criteria									
1	Similar Projects/References - 20%	18.00	17.00	15.00	15.00	14.00	12.00	13.00	14.00	11.00
2	Project Approach and Schedule - 30%	27.00	22.50	22.50	18.00	18.00	16.50	18.00	18.00	18.00
3	Qualifications/Financial Resources - 20%	17.00	17.00	14.00	14.00	14.00	11.00	10.00	11.00	12.00
4	Price, Total Cost of Ownership - 30%	26.00	24.00	29.00	27.00	25.00	30.00	28.00	22.00	23.00
Total Score:		88.00	80.50	80.50	74.00	71.00	69.50	69.00	65.00	64.00

Interview Scores				
Item #	Standard Criteria	Mayhill Renewables, LLC	Vitol BioMethane	Morrow Renewables
1	Similar Projects/References - 20%	18.00	14.00	14.67
2	Project Approach and Schedule - 30%	27.00	20.00	24.00
3	Qualifications/Financial Resources - 20%	18.67	15.33	14.00
4	Price, Total Cost of Ownership - 30%	26.00	29.00	24.00
Total Score:		89.67	78.33	76.67

LEASE AGREEMENT

between

CITY OF DENTON

and

MAYHILL RENEWABLES, LLC

dated as of

_____, 2025

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LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Agreement") effective as of this _____ day of _____, 2025, by and between the CITY OF DENTON, a Texas home-rule municipal corporation ("City"), and Mayhill Renewables, LLC, a Texas limited liability company ("Lessee") and, together with City, the "Parties" and each a "Party").

RECITALS

WHEREAS, City is the owner of the property described in **Exhibit A** located in Denton, Texas (the "Property");

WHEREAS, City and Lessee have entered into or will enter into that certain Landfill & Digester Gas Agreement regarding constructing and operating facilities at the Property (the "LDGA");

WHEREAS, Lessee is a company specializing in designing and operating Landfill Gas (as defined in the LDGA) processing facilities and converting Landfill Gas to High-BTU Gas (as defined in the LDGA);

WHEREAS, City has the right, title and interest in and to the real property located in and around the landfill depicted on **Exhibit A**, together with the facilities, rights, and privileges hereinafter granted, (collectively referred to herein as the "Leased Property") and has full power and authority to enter into this Agreement in respect thereof;

WHEREAS, Lessee plans to develop a Landfill and Digester Gas processing facility, subject to the terms set forth herein and in the LDGA (the "Project");

WHEREAS, City desires to develop and permit uses of the Leased Property that are beneficial to the City and the general public;

WHEREAS, City has determined that the Project on the Leased Property will be beneficial to the City and serve a public purpose; and

WHEREAS, Lessee is qualified, willing and able to undertake such commercial development and use, and the City is willing to lease the Leased Property to Lessee for such activities; and

WHEREAS, the Parties hereto wish to memorialize their agreement with respect to the Leased Property herein.

CITY

LESSEE

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference are hereby incorporated into this Agreement, and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties hereto agree as follows:

**ARTICLE I
LEASE OF LEASED PROPERTY; TERM**

Section 1.1 Lease of Leased Property.

A. City hereby leases to Lessee, and Lessee hereby rents from City for its exclusive use the Leased Property and any preexisting improvements (as defined herein), and all herein described rights incident thereto, for and during the Lease Term (hereafter defined) and upon and subject to the terms, provisions and conditions herein set forth. All improvements preexisting in, on or under the Leased Property as of the Commencement Date, as hereafter defined, shall be referred to herein as "Preexisting Improvements". The "Leased Property" shall be deemed to include the Preexisting Improvements and the LDGA Facilities, as hereafter defined.

Section 1.2 Lease Term. The term of this Agreement shall be for an initial term commencing on _____, 2025 (the "Commencement Date") and continuing for twenty (20) years thereafter, unless sooner terminated pursuant to the provisions of this Agreement. The Lease Term may be extended by mutual consent of the Parties for conditioned upon the coincident extension of the LDGA between the City and Lessee. However, the foregoing shall not preclude the Parties from entering into a new lease to be effective after the expiration of the Lease Term. If the LDGA is terminated for any reason, this Agreement shall also automatically terminate, and City and Lessee shall have no further obligations or liabilities hereunder except as otherwise stated herein.

Section 1.3 Holding Over; Rights at Expiration.

A. If Lessee does not vacate the Premises following termination of this Agreement, Lessee will become a tenant at sufferance. No holding over by Lessee, whether with or without the consent of Landlord, will extend the Agreement term. Lessee stipulates that its possession of the Leased Property after the expiration of the Agreement term, as a tenant of sufferance, will cause damage to City in excess of fair market value of rent resulting, in part, due to City operations at the Property.

B. Lessee further agrees that, upon the expiration or termination of the Lease Term, the Leased Property will be delivered to City in good working order and condition, reasonable wear and tear and matters covered by insurance excepted, and the Improvements, as hereafter defined, will be delivered to City in as good a condition as when such Improvements were constructed, located, installed, placed or erected in, upon or under the Leased Property, reasonable wear and tear and matters covered by insurance excepted.

C. Except as otherwise expressly set forth elsewhere herein, Lessee shall have no rights with respect to any improvements made to the Leased Property during the Lease Term that are not otherwise required to be removed by City.

Section 1.4 Inspection of Leased Property; Access to Books and Records. City, through its duly authorized agents, shall have at any reasonable time the right to enter the Leased Property and the Improvements, as hereafter defined in Section 3.2.A., for the purpose of periodic inspection for fire protection, maintenance and to investigate compliance with the terms of this Agreement; provided, however, that except in the case of emergency, Lessee shall have no less than forty-eight (48) hours' notice and an opportunity to have an employee or agent present. The City agrees that any entry pursuant to this Section 1.4 will not unreasonably interfere with Lessee's construction or operations. Lessee agrees to provide any documents that may be reasonably requested by City to determine compliance with this Agreement within thirty (30) days of such request.

Section 1.5 Ownership of Leased Property. City and Lessee intend and hereby agree that the Leased Property shall be and remain the property of City during the entire term of this Agreement and thereafter.

ARTICLE II

RENTAL

Section 2.1 Rent.

A. In consideration for the use of the Leased Property herein granted, Lessee shall pay to City the following rental amounts (the "Rent"). The monthly rent shall be in the sum of ONE THOUSAND AND NO/100 DOLLARS (\$1000) per month (sales tax included). On or prior to the Commencement Date, Lessee shall pay City a sum equal to the first month's Rent, which shall be applied to the first month's Rent due under this Agreement. All other Rent payments will be due in advance on or before the first day of the month to which the Rent payment relates. Failure to receive an invoice reflecting Rent in a timely manner does not absolve Lessee from its obligation to pay the monthly Rent on or before the first day of the month to which the Rent payment relates. If the Commencement Date or a termination date occurs on a day other than the first day of a calendar month, Rent for the first and last partial months will be prorated on the basis of the number of actual days in such month.

B. The Rent for the Leased Property shall be increased, but not decreased if extended pursuant to Section 1.2, with the first adjustment occurring on the first day of the month of any such Lease Term extensions. Adjustments to the rent shall be on the basis of the proportion that the then current and available month United States Consumer Price Index for all urban consumers ("CPI-U") for the Dallas-Fort Worth Bureau of Labor Statistics bears to the January 2025 index.

Section 2.2 Time and Place of Payments. The Rent, shall be payable by wire transfer monthly prior to the Commercial Operations Date as set forth in the LDGA. Thereafter, Rent shall be payable monthly along with the royalty payments consistent with Section 4.4 of the LDGA and is considered a Reimbursable Cost.

Section 2.3 Delinquent Rent. In the event Rent due pursuant to Section 2.1 or any other amounts payable by Lessee hereunder shall not be paid by Lessee on or before thirty (30) days after the due date thereof (the "Grace Period"), Lessee shall pay to City

as additional Rent, an interest charge equal to the lower of (i) the annual rate equal to the Prime Rate (as defined herein) then in effect plus two percent (2%) and (ii) the maximum percentage allowed by law, multiplied by the amount due for each full calendar month of delinquency, computed as simple interest. Interest shall be computed and assessed from the due date. The "Prime Rate" means the interest rate (sometimes referred to as the "base rate") for large commercial loans to creditworthy entities announced from time to time by Citibank, N.A. (New York), or its successor bank, or, if such rate is not announced, the rate published in The Wall Street Journal as the "Prime Rate" from time to time (or, if more than one rate is published, the arithmetic average of such rates), in either case determined as of the date the obligation to pay interest arises.

ARTICLE III

OCCUPANCY, USE AND CONDITIONS OF LEASED PROPERTY

Section 3.1 Condition of Leased Property. Lessee accepts the Leased Property in their present "as is" condition. **LESSEE RELEASES CITY AND HOLDS CITY AND CITY'S OFFICERS, DIRECTORS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AND AGENTS HARMLESS FOR ANY CLAIMS ARISING OUT OF OR RELATED TO ANY CONDITION OF THE LEASED PROPERTY.**

Section 3.2 Project Construction and Ownership of Improvements.

A. The Parties agree that this Agreement is entered into specifically with the understanding that Lessee will build, construct, and complete the Project at its own expense in accordance with the requirements of the Denton Development Code and other City of Denton specifications unless this Agreement is sooner terminated pursuant to the terms herein. Any and all buildings, structures, fixtures, appurtenances, site work, site utilities, or other improvements to be located or constructed on the Leased Property by Lessee during the Lease Term shall be known as "Improvements". Improvements shall not include any Preexisting Improvements, Lessee Personal Property or LDGA Improvements, as hereafter defined. Those improvements made by City or Lessee to enable the delivery of Landfill Gas or Digester Gas from City to the equipment of Lessee will be referred to herein as the "LDGA Improvements". Any structures from which the Project business will be conducted that are placed on the Leased Property by Lessee during the Lease Term that can be disassembled and removed from the Leased Property without causing material damage to the Leased Property, Preexisting Improvements, Improvements or LDGA Improvements will be considered the personal property of Lessee ("Lessee Personal Property") and will not be considered "Improvements". Lessee agrees to commence construction of the Project within ninety (90) days after the Commencement Date and to complete the Project in accordance with all governmental requirements and specifications and to obtain a Certificate of Occupancy, and/or such other evidence of completion as may be applicable, as soon as practicable after the Commencement Date. Lessee shall not construct, locate, install, place or erect any improvements, other than the Improvements and LDGA Improvements, at, upon or under the Leased Property without the express prior written consent of City, which consent shall not be unreasonably withheld or delayed.

B. Lessee will own, operate, and maintain the LDGA Improvements as further set forth in the LDGA during the Lease Term. Effective upon the expiration or termination of this Agreement, the LDGA Improvements shall be removed by Lessee without material damage to the Leased Property by the date of expiration or termination of this Agreement. The Lessee Personal Property and any other personal property of Lessee that can be removed by Lessee without material damage to the Leased Property or to the Improvements, Preexisting Improvements or LDGA Improvements may remain the personal property of Lessee and may be removed by Lessee at any time on or before the end of the Lease Term. In connection with the expiration or termination of this Agreement, City reserves the right to require Lessee to remove the Lessee Personal Property from the Leased Property by the date of expiration or termination of this Agreement. If so required, Lessee shall remove the Lessee Personal Property from the Leased Property by the date of expiration or termination of this Agreement. Lessee shall, in removing any such Lessee Personal Property or other personal property, repair all damage to the Leased Property, Improvements, Preexisting Improvements, and LDGA Improvements caused by such removal. Any Lessee Personal Property or any other property, of any kind or type, left or remaining on the Leased Property at the expiration or termination of this Agreement shall be deemed abandoned property and, without liability of any kind to City and without payment of consideration of any kind to Lessee, at City's option may be removed, retained, stored, destroyed, or disposed of by City or its contractors, all at Lessee's expense. Lessee shall remove from property any and all hazardous or environmentally sensitive materials that are the result of Lessee's activities and are located upon or may accumulate or otherwise be placed on the Property ("Lessee Hazardous Material") and dispose of same in accordance with all applicable statutes, regulations, rules, orders, and ordinances. Lessee is not responsible for any Hazardous Materials that were on the Property prior to Lessee taking possession of the Property. It is expressly stipulated that Lessee Hazardous Material shall be deemed at all times the property of Lessee; and City may remove, retain, store (at Lessee's expense), destroy, or dispose of any personal property and any other property, of any kind or type, left or remaining on the Property at the termination of the Lease, without liability of any kind to the City. Preexisting Improvements are and shall continue to be owned by City. The rights and obligations provided in this Section 3.2.B, shall survive any expiration or termination of this Agreement.

Section 3.3 Access; Staging Areas. City agrees that if Lessee is not in breach of this Agreement beyond any applicable notice and cure period, Lessee and Lessee's employees, officers, directors, Project employees, contractors, subcontractors, suppliers, agents, invitees, and other representatives ("Lessee's Associates") are authorized to enter, exit and transit across the existing roads in the non-controlled access areas of the Property on a non-exclusive basis for purposes of ingress and egress to the extent reasonably necessary in connection with Lessee's construction of the Project authorized by City, Lessee's construction of the LDGA Improvements, and for Lessee's use, occupancy, and operations at the Leased Property. If one or more of the unimproved existing roads in the non-controlled access areas of the Property require improvement or modification, if approved in writing in advance by City, Lessee may undertake such road improvement or modification at Lessee's expense. If in connection with any construction authorized hereunder, Lessee wishes (i) to use or access the City's utility poles for purposes of attaching any telecommunications lines or cables, Lessee may do so only with City's prior approval pursuant to the template Pole Attachment Agreement passed by Ordinance 2016-271 signed by the Parties, or (ii) to temporarily stage any construction materials or

CITY

LESSEE

equipment, Lessee may do so only at those locations in the non-controlled access areas of the Property authorized by City in writing and only in the manner, and for the duration, permitted by City evidenced by the Temporary Construction Easement attached hereto as Exhibit B. Lessee shall not be obligated to pay any fees for the Temporary Construction Easement, however, Lessee shall provide a survey of the proposed Temporary Construction Easement for review, comment, and approval by the City. Lessee shall, at its expense, in connection with any of the activities described in this Section 3.3 or elsewhere in this Agreement, repair or restore any and all damage to the Property, Leased Property, Improvements, Preexisting Improvements, and LDGA Improvements caused by or resulting from the acts or omissions of Lessee or any of Lessee's Associates. Lessee and Lessee's Associates agree to comply with the reasonable security and safety policies, procedures and practices of the City at all times.

Section 3.4 Use of Leased Property and Compliance with all Laws and Regulations. Lessee agrees that it shall use the Leased Property and the Improvements only for its reasonable business purposes authorized by City from time to time in its sole discretion, which City-authorized business purposes include the construction and operation of Project facilities. Lessee and Lessee's Associates shall comply at all times, at Lessee's sole cost, with any and all laws and regulations (as amended or otherwise modified from time to time) that are applicable to Lessee's business or to Lessee's construction of the Improvements or LDGA Improvements, including any applicable laws or regulations pertaining to the construction of buildings or other improvements on public property, and that are applicable to Lessee's use, occupancy, or operations at the Leased Property, the Improvements or, to the limited extent provided herein, the Property (the "Laws and Regulations"), which include, but are not limited to, all laws, statutes, ordinances, regulations, rules, orders, writs, judgments, decrees, injunctions, directives, rulings, guidelines, standards, codes, policies, common law, and other pronouncements of any kind having the effect of law that may be applicable at any time during the term of this Agreement including, but not limited to, master plans and zoning codes, and all Laws and Regulations pertaining to the environment (the "Environmental Laws"); any and all plans and programs developed in compliance with such requirements; and all lawful, reasonable, and nondiscriminatory City policies and other requirements, including but not limited to restrictions on noise, dust and light spillover and any current or future agreements to which the City is a party restricting noise, dust, light spillover or operations on the Property. Lessee shall provide all required notices under the Laws and Regulations with respect to the Leased Property or the Improvements. If requested by City in writing, Lessee will verify, within a reasonable time frame, compliance with any Laws and Regulations. Further, in its use of the Leased Property and the Improvements, Lessee shall comply with the following:

A. **Address.** Lessee shall file with the Solid Waste Department and keep current its mailing and email addresses, landline telephone and cell phone numbers, and contacts where it can be reached in an emergency.

Section 3.5 No Unauthorized Use. Lessee and Lessee's Associates shall use the Leased Property, the Improvements and, to the limited extent provided herein only for purposes that are expressly authorized by this Agreement and shall not engage in any

unauthorized use of the same. Unauthorized uses include, but are not limited to, restricting access on any road or other area that Lessee does not lease; placing waste materials on or around the Leased Property or disposing of such materials in violation of any Laws and Regulations; any use that would constitute a public or private nuisance or adversely impact adjacent landowners; parking outside of the Leased Property or using automobile parking areas outside of the Leased Property, unless authorized by DME in writing; use of automobile parking areas within the Leased Property in a manner not authorized by this Agreement or City; any use that would interfere with any operation at the landfill or that would decrease the landfill's effectiveness (as determined by City in its sole discretion); and any use that would be prohibited by or would impair coverage under either Party's insurance policies or would cause an increase in the existing rate of insurance upon the Leased Premise.

Section 3.6 Permits and Licenses. Lessee shall obtain and maintain in current status all permits and licenses that are required under any Laws and Regulations in connection with Lessee's construction of Improvements or LDGA Improvements and the use, occupancy, or operations at the Leased Property or of the Improvements. Those permits and licenses include, but are not limited to, (i) all contractors doing work on the Leased Property, including work on or for the Improvements or LDGA Improvements, must be licensed by the State of Texas, (ii) if applicable, prior to commencing construction of any Improvements or LDGA Improvements, a permit must be obtained from the City and a copy of the permit must be furnished to DME, and (iii) if applicable, clearance must be obtained from the responsible health department or other agency. In the event that Lessee receives notice from any governmental entity that Lessee lacks, or is in violation of, any such permit, license or other requirement, Lessee shall provide City with timely written notice of the same and Lessee shall diligently pursue the resolution of any such issues.

Section 3.7 Payment of Taxes. Lessee shall pay (before their respective due dates) all taxes, including ad valorem taxes, and all fees, charges, assessments, and levies that relate to Lessee's use, occupancy, or operations at the Leased Property or the Improvements and all other obligations for which a lien may be created relating thereto (including, but not limited to, utility charges and work for any Improvements or LDGA Improvements). During the Lease Term, Lessee shall be responsible for any and all taxes generated by the Denton County Tax Assessor / Collector. With respect to the Leased Property and the Improvements, such taxes shall be prorated between Lessee and City on a daily basis for the tax years in which the Lease Term commences and expires or terminates. City shall either forward tax bills for the Leased Property to Lessee, or cause the taxing authority to mail the bills directly to Lessee.

Section 3.8 No Liens. No liens related to Lessee or Lessee's use, occupancy or operations may be placed upon the Leased Property. Within thirty (30) days, Lessee shall pay all lawful claims made against City and discharge all liens filed or which exist against the Leased Property to the extent such claims arise out of or in connection with, whether directly or indirectly, the failure to make payment for work done or materials provided by Lessee its contractors, subcontractors, or materialmen. However, Lessee shall have the right to contest the amount or validity of any such claim or lien without being in default

under this Agreement upon furnishing security in form acceptable to City, in an amount equal to one hundred percent (100%) of such claim or lien, which insures that such claim or lien will be properly and fully discharged forthwith in the event that such contest is finally determined against Lessee or City. City shall give timely notice to Lessee of all such claims and liens of which it becomes aware. When contracting for any work in connection with the Leased Property, Improvements or LDGA Improvements, Lessee shall include in such contract a provision prohibiting the contractor or any subcontractor or supplier from filing a lien or asserting a claim against City's real property or any interest therein. Lessee is solely responsible for ensuring that all requirements are met such that such lien waivers are effective and enforceable (such as filing such contracts, if necessary). Furthermore, when completed, the Improvements and LDGA Improvements on the Leased Property shall be free from all construction liens.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations by City. City represents and warrants that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement, has duly executed and delivered this Agreement, and that this Agreement constitutes a legal, valid, and binding obligation of City.

Section 4.2 Representations by Lessee. Lessee represents and warrants that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement, has duly executed and delivered this Agreement, and that this Agreement constitutes a legal, valid, and binding obligation of Lessee.

ARTICLE V

OBLIGATIONS OF LESSEE

Section 5.1 Plans and Specifications; Re-Zoning. With respect to any Improvements and LDGA Improvements, Lessee shall select qualified architects and engineers to prepare and, if applicable, submit for approval, prior to construction or on a phased basis during construction, any architectural, site, structural, civil, mechanical, and/or electrical drawings and specifications for the Improvements and LDGA Improvements in the form and with the content required by the appropriate local planning and zoning authorities and pursuant to all applicable Laws and Regulations and this Agreement (collectively, the "Plans and Specifications").

Section 5.2 Operations and Maintenance. Lessee shall maintain the Leased Property and all Improvements in a condition that is clean, free of debris, safe, sanitary, and in good repair and shall not accumulate or permit the accumulation of any trash, refuse, debris, or anything that is unsightly, creates a fire hazard or nuisance, or causes inconvenience to adjoining properties. Lessee shall at its own expense create, execute, and maintain a comprehensive landscaping, tree canopy, and irrigation plan for the Leased Property in accordance with relevant local development and landscaping codes. Lessee

shall perform all work in accordance with Laws and Regulations and in a good and workmanlike manner. Lessee shall promptly remedy any condition that fails to meet this standard. Without limiting the foregoing obligations, Lessee shall not store on the Leased Property any inoperable equipment, excess, discarded or unsightly materials, or materials likely to create a hazard; shall not use areas outside of enclosed buildings for storage; and shall store trash in covered metal receptacles. Any substance or material that is regulated by any Environmental Law ("Hazardous Materials") shall be governed by Section 5.6. In addition, Lessee agrees to comply with all applicable provisions of City's Texas Pollutant Discharge Elimination Multi-Sector General Permit.

Section 5.3 Utilities. City represents that there are water, sewer, and electrical lines accessible within the general vicinity of the Leased Property. Lessee shall be responsible, at Lessee's sole cost and expense, for obtaining all utility connections at or for the Leased Property, Improvements and Lessee Personal Property. Further, Lessee shall pay for telecommunications, television, internet, gas, light bulbs, electricity, water, sewer, and garbage and trash removal services provided to or used by Lessee and shall make such deposits as are required to secure service. Lessee shall be responsible for any water or sewer impact fees incurred by Lessee's and Lessee's Associates' use of the Leased Property. Any repairs of the LDGA Improvements or other utility lines, other than those which are the responsibility of the utility service, are the responsibility of Lessee.

Section 5.4 Signs. Lessee shall not place, or cause to be placed, any sign or signs on the Leased Property or the Improvements unless otherwise agreed to in writing by City.

Section 5.5 Security. Lessee is responsible to comply (at Lessee's sole cost) with all security measures that City, the United States Department of Homeland Security ("Homeland Security"), the National Electric Regulatory Commission ("NERC"), the Texas Reliability Entity ("TRE"), or any other governmental entity having jurisdiction may require now or in the future in connection with the Lessee's activities and operations on the Leased Property, including, but not limited to, any access credential and escort requirements, and any civil penalty obligations and other costs arising from a breach of security requirements caused or permitted by Lessee or Lessee's Associates. Lessee shall protect and preserve security at the Leased Property.

Section 5.6 Hazardous Materials.

A. **No Violation of Environmental Laws.** Lessee shall not cause or permit any Hazardous Materials to be used, produced, stored, transported, brought upon, or released on, under, or about the Leased Property by Lessee or Lessee's Associates in violation of applicable Environmental Laws. Lessee is responsible for any such violation as provided by Section 7.1.

B. **Response to Violations.** Lessee agrees that in the event of a release or threat of release of any Hazardous Material by Lessee or Lessee's Associates at the DEC Property, Lessee shall provide City with prompt notice of the same. Lessee shall respond to any such release or threat of release in accordance with applicable Laws and Regulations. If City has reasonable cause to believe that any such release or threat of release has occurred, City may request, in writing, that

Lessee conduct reasonable testing and analysis (using qualified independent experts reasonably acceptable to City) to show that Lessee is complying with applicable Environmental Laws. City may conduct the same at Lessee's expense if Lessee fails to respond in a reasonable manner. Lessee shall cease any or all of Lessee's activities as City determines necessary, in its sole and absolute discretion, in connection with any investigation, cure, or remediation. If Lessee or Lessee's Associates violate any Environmental Laws at the Leased Property (whether due to the release of a Hazardous Material or otherwise), Lessee, at Lessee's sole expense, shall have the following obligations, which shall survive any expiration or termination of this Agreement: (i) promptly remediate such violation in compliance with applicable Environmental Laws; (ii) submit to City a written remediation plan, and City reserves the right to approve such plan (which approval shall not be unreasonably withheld) and to review and inspect all work; (iii) work with City and other governmental authorities having jurisdiction in connection with any violation; and (iv) promptly provide City copies of all documents pertaining to any environmental concern that are not subject to Lessee's attorney-client privilege.

C. **Obligations upon Termination and Authorized Transfers.** Upon any expiration or termination of this Agreement or any change in possession of the Leased Property authorized by City, Lessee shall demonstrate to City's reasonable satisfaction that Lessee has removed any Hazardous Materials and is in compliance with applicable Environmental Laws. Such demonstration may include, but is not limited to, independent analysis and testing to the extent that facts and circumstances warrant analysis and testing, such as evidence of past violations or specific uses of the Leased Property. If the site is contaminated during Lessee's possession, Lessee shall bear all costs and responsibility for the required clean up, and shall hold City, its officers, elected and appointed officials, employees, and agents harmless therefrom unless such contamination was caused directly by the City. Notwithstanding anything to the contrary, the obligations of this Section 5.6.C. shall survive any termination of this Agreement.

Section 5.7 Trash, Garbage, and Other Refuse. Lessee shall pick up and provide for a complete and proper arrangement for the adequate sanitary handling and disposal of trash, garbage and other refuse, away from the Property through the City or any other licensed refuse hauler. Lessee is responsible for contacting the refuse hauler and arranging for such waste management, handling and disposal services and for payment of such services. Lessee shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse on the Leased Property. Lessee shall not pile boxes, cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Leased Property.

ARTICLE VI

INDEMNIFICATION AND INSURANCE

Section 6.1 Insurance. Lessee agrees to purchase at their own cost and maintain the minimum insurance coverage as provided below. Lessee shall provide satisfactory certificate(s) of insurance, including any applicable endorsements to the City no less than thirty (30) days prior to the scheduled program date.

- A. 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**.
- B. Each policy shall be primary and noncontributory with any other coverage elsewhere afforded or available to the City, as well as provide primary coverage for all losses and damages caused by the perils covered thereby related to or arising from the Lessee's use of the property and shall not require the exhaustion of any other coverages afforded or available to the City.
- C. **General Liability Insurance:** General Liability insurance with combined single limits of not less than \$1,000,000.00 shall be provided and maintained by the Lessee. The policy shall be written on an occurrence basis, either in a single policy or in a combination of underlying and umbrella or excess policies. If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:
 - Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
 - Coverage B shall include personal injury.
 - Coverage C, medical payments, is not required. If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:
 - Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
 - Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.
- D. All Risk Property Insurance covering LESSOR'S buildings, including improvements and betterments with insured value equal to 80% replacement cost. Covered perils shall include, but not be limited to, Fire, Extended Coverage, and Vandalism & Malicious Mischief. The City of Denton will be shown as a loss payee, as their interest may appear.
- E. Pollution Liability Insurance covering losses caused by pollution conditions that arise from the operation of the Lessee coverage not less than \$1,000,000 each incident and in the aggregate. This can be achieved through a standalone pollution liability policy with limits not less than \$1,000,000 per occurrence and in the aggregate or through the addition of a pollution liability endorsement onto the general liability policy with limits not less than \$1,000,000 per occurrence and in the aggregate.

Liability policies shall be endorsed to provide the following:

- Name as Additional Insured the City of Denton, its Officials, Agents, Employees, and Volunteers.
- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

Notice of Cancellation, Material Change, and Non-Renewal: All insurance required herein shall be endorsed to provide a 30-day notice of cancellation, material change, and non-renewal to the City to the extent commercially available. If this endorsement cannot be provided, Lessee will immediately provide written notice to the City should any of the insurance policies required herein be canceled, limited in scope, or not renewed upon expiration. Said notice must be provided no later than 30-days prior (except 10 days for nonpayment of premium) to any such action being taken. Lessee agrees to purchase general liability insurance in the amount of \$1,000,000.00 combined single limit to cover Lessee's operations as described in Section 3.4. Insurance coverage shall include City as an additional named insured, providing fifteen (15) days' notice of cancellation. Lessee shall submit Certificate(s) of Insurance to City within ten (10) working days after the effective date of this Agreement, and yearly thereafter.

Section 6.2 Indemnification and Duty to Pay Damages.

A. LESSEE SHALL INDEMNIFY AND HOLD CITY AND CITY'S OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AND AGENTS EXEMPT AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS, AND EXPENSES ASSERTED BY ANY PERSON OR PERSONS (INCLUDING AGENTS OR EMPLOYEES OF CITY, LESSEE, OR SUBLESSEE) BY REASON OF DEATH OR INJURY TO PERSONS OR LOSS OF OR DAMAGE TO PROPERTY RESULTING FROM (I) LESSEE'S BREACH OR OTHER VIOLATION OF THIS AGREEMENT, OR AND (II) LESSEE'S ACTIVITIES, INCLUDING BUT NOT LIMITED TO CONSTRUCTION ACTIVITIES BY LESSEE OR BY ANY OF LESSEE'S ASSOCIATES, OR OPERATIONS, OR ANYTHING DONE OR OMITTED BY LESSEE OR BY ANY OF LESSEE'S ASSOCIATES, UNDER THIS AGREEMENT EXCEPT TO THE EXTENT THAT SUCH CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS, AND EXPENSES MAY BE ATTRIBUTED TO THE SOLE NEGLIGENCE OF CITY, ITS AGENTS, ITS EMPLOYEES.

B. LESSEE SHALL INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS THE CITY OF DENTON TO ANY AND ALL CLAIMS FOR DAMAGES, FINES, PENALTIES, COSTS OR EXPENSES TO PERSONS OR PROPERTY THAT MAY ARISE OUT OF, OR BE OCCASIONED BY OR FROM: (I) THE USE AND OCCUPANCY OF THE AREA DESCRIBED IN EXHIBIT A; (II) THE PRESENCE, GENERATION, SPILLAGE, DISCHARGE, RELEASE, TREATMENT OR DISPOSITION OF ANY LESSEE HAZARDOUS SUBSTANCE ON OR AFFECTING THE AREA SET OUT IN EXHIBIT A; (III) ALL CORRECTIVE ACTIONS CONCERNING ANY DISCOVERED LESSEE HAZARDOUS SUBSTANCES ON OR AFFECTING THE AREA DESCRIBED IN EXHIBIT A, WHICH LESSEE AGREES TO UNDERTAKE AND COMPLETE IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS. LESSEE AGREES TO DEFEND ANY AND ALL SUITS, CLAIMS, OR CAUSES OF ACTION BROUGHT AGAINST THE CITY OF DENTON ON ACCOUNT OF SAME, AND DISCHARGE ANY JUDGMENT OR JUDGMENTS THAT MAY BE RENDERED AGAINST THE CITY OF DENTON IN CONNECTION THEREWITH. FOR

PURPOSES HEREOF, "LESSEE HAZARDOUS SUBSTANCE" MEANS THE FOLLOWING: (A) ANY "HAZARDOUS SUBSTANCES" UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, 42 U.S.C. SECTION 9601 ET SEQ., AS AMENDED DUE TO LESSEE'S ACTIVITIES; (B) ANY "HAZARDOUS SUBSTANCE" UNDER THE TEXAS HAZARDOUS SUBSTANCES SPILL PREVENTION AND CONTROL ACT, TEX. WATER CODE, SECTION 26.261 ET SEQ., AS AMENDED DUE TO LESSEE'S ACTIVITIES; (C) PETROLEUM OR PETROLEUM-BASED PRODUCTS (OR ANY DERIVATIVE OR HAZARDOUS CONSTITUENTS THEREOF OR ADDITIVES THERETO), INCLUDING WITHOUT LIMITATION, FUEL AND LUBRICATING OILS DUE TO LESSEE'S ACTIVITIES; (D) ANY "HAZARDOUS CHEMICALS" OR "TOXIC CHEMICALS" UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT, 29 U.S.C. SECTION 651 ET SEQ., AS AMENDED DUE TO LESSEE'S ACTIVITIES; (E) ANY "HAZARDOUS WASTE" UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C. SECTION 6901 ET SEQ., AS AMENDED; AND (F) ANY "CHEMICAL SUBSTANCE" UNDER THE TOXIC SUBSTANCE CONTROL ACT, 15 U.S.C. SECTION 2601 ET SEQ., AS AMENDED. REFERENCES TO PARTICULAR ACTS OR CODIFICATIONS IN THIS DEFINITION INCLUDE ALL PAST AND FUTURE AMENDMENTS THERETO, AS WELL AS APPLICABLE RULES AND REGULATIONS AS NOW OR HEREAFTER PROMULGATED THEREUNDER DUE TO LESSEE'S ACTIVITIES. THIS SECTION BY NO MEANS IMPOSES ADDITIONAL LIABILITY UPON LESSEE FOR HAZARDOUS MATERIALS THAT WERE ON THE PROPERTY PRIOR TO LESSEE TAKING POSSESSION OF THE PROPERTY.

C. City shall not be liable to Lessee for any damage by or from any act or negligence of any tenant or other occupant by any owner or occupant of adjoining or contiguous property.

D. Lessee agrees to pay for all damages to the Leased Property, the Improvements, the Preexisting Improvements, the LDGA Improvements, and any related apparatus or appurtenances caused by Lessee's misuse or neglect thereof.

E. Lessee shall be responsible and liable for its conduct and the conduct of Lessee's Associates in, on and around the Leased Property, including but not limited to under or around any transmission lines.

F. The provisions of this Section 6.2 and the remedies and rights provided in this Section 6.2 shall survive any expiration or termination of this Agreement.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.1 Lessee's Default. The occurrence of any of the following events shall constitute a default by Lessee under this Agreement unless cured within thirty (30) days following written notice of such violation from City: (i) Lessee fails to timely pay any Rent; (ii) Lessee or Lessee's Associates violate any requirement under this Agreement (including, but not limited to, abandonment of the Leased Property); (iii) Lessee assigns

or encumbers any right in this Agreement, delegates any performance hereunder, or subleases any part of the Leased Property except as expressly permitted in this Agreement; (iv) Lessee files a petition in bankruptcy or has a petition filed against Lessee in bankruptcy, insolvency, or for reorganization or appointment of a receiver or trustee which is not dismissed within sixty (60) days; (v) Lessee petitions for or enters into an arrangement for the benefit of creditors, or suffers this Agreement to become subject to a writ of execution and such writ is not released within thirty (30) days; (vi) Lessee defaults in constructing any Improvements that are required to be constructed under this Agreement; (vii) Lessee dissolves or dies; (viii) Lessee is in default under the terms of the LDGA; or (ix) the LDGA terminates or expires. Notwithstanding the foregoing, with respect to clause (ii) of the previous sentence, if the nature of Lessee's requirement is such that more than thirty (30) days are reasonably required for performance or cure of such requirement, Lessee shall not be in default if Lessee commences performance within such 30-day period and thereafter diligently pursues the same to completion.

Section 7.2 Default by City. City shall not be in default under this Agreement unless City fails to perform an obligation required of City under this Agreement within thirty (30) days after written notice by Lessee to City. If the nature of City's obligation is such that more than thirty (30) days are reasonably required for performance or cure, City shall not be in default if City commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

Section 7.3 Remedies for Failure to Pay Rent. If any Rent required by this Agreement shall not be paid when due, and City has provided Lessee with the required notice and opportunity to cure as set forth in Section 7.1, City shall have the option to:

A. Terminate this Agreement, take possession of the Improvements, resume possession of the Leased Property for its own account, and recover immediately from Lessee the differences between the Rent and the fair rental value of the Property for the Lease Term, reduced to present worth; or

B. Terminate this Agreement and the LDGA, take possession of the Leased Property, resume possession of the Leased Property, re-lease the Leased Property for the remainder of the Lease Term for the account of Lessee, and recover from Lessee, at the end of the Lease Term or at the time each payment of Rent comes due under this Agreement as City may choose, the difference between the Rent and the rent received on the re-leasing or renting of the Leased Property

In an event of default by Lessee City shall also recover all reasonable and documented expenses incurred by reason of an event of default, including reasonable attorneys' fees.

Section 7.4 Remedies for Breach of Agreement. If Lessee breaches or fails to perform any provision of this Agreement other than the agreement of Lessee to pay Rent, City shall provide written notice to Lessee identifying the breach or specifying the performance required. If Lessee fails to remedy the breach within the required notice and cure period set forth in Section 7.1 City may terminate this Agreement or take any such action it is legally entitled to take, including instituting litigation to compel performance of this Agreement. Should litigation be filed by City and it is the prevailing party in that

litigation, Lessee shall be liable for all reasonable and documented expenses related to such litigation, including City's reasonable attorneys' fees.

Section 7.5 Cross Default. Any event of default under the LDGA (or under any of the other agreements referenced therein or executed in connection therewith) by either City or Lessee shall be an event of default hereunder.

Section 7.6 Survival. The provisions of this Article VII and the remedies and rights provided in this Article VII shall survive any expiration or termination of this Agreement.

ARTICLE VIII

ASSIGNMENT AND SUBLEASING

Section 8.1 Assignment by Lessee.

A. Except as otherwise set forth in Section 8.1(B) of this Agreement, Lessee shall not assign any of its rights under this Agreement, including, but not limited to, rights in any Improvements, (whether such assignment is voluntarily or involuntarily, by consolidation, dissolution, change in control, or any other manner), and shall not delegate any performance under this Agreement, except with the prior written consent of City to any of the same, in City's sole discretion. As a condition of obtaining such consent, the City reserves the right to require the transferee receiving any such rights from Lessee to (i) provide its financial statements or other financial or credit information to City for review, (ii) provide replacement insurance certificates for the insurance required under this Agreement prior to the effective date of the transfer or assignment, (iii) provide a security deposit or letter of credit in the manner and form acceptable to City securing payment and other obligations under this Agreement, and/or (iv) execute a new lease agreement provided by City. Regardless of City's consent, Lessee shall not be released from any obligations for matters arising during the time when this Agreement was in effect. Any purported assignment or delegation of rights or delegation of performance in violation of this section is void.

B. Notwithstanding anything to the contrary contained in this Article VIII, an assignment or transfer of this Agreement (each a "Transfer"): (i) to a successor to Lessee by merger, consolidation or reorganization or in connection with the sale of all or substantially all of the assets of Lessee (a "Successor"); or (ii) to an entity which is controlled by, controls, or is under common control with Lessee, shall not require City's consent. Lessee shall notify City of any such Transfer and promptly supply City with any documents or information reasonably requested by City regarding such Transfer or such entity, and further provided that no uncured event of default exists. "Control," as used in this Section, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether by the ownership of voting securities, by contract or otherwise.

C. Upon the expiration or termination of this Agreement with respect to the Improvements and upon construction or installation with respect to the LDGA Improvements, Lessee hereby grants, assigns, transfers, and conveys to City, without warranty, the following:

(a) The non-exclusive right to the use of the Plans and Specifications at the Leased Property to the extent the Plan and Specifications are owned by Lessee;

(b) A non-exclusive license to any copyright interests in the Plans and Specifications held by Lessee to reproduce and distribute in connection with the Leased Property only; and

(c) The right to enforce, in Lessee's own name as a proper party, (i) any subcontracts related to the Improvements or other maintenance or services contracts in force with respect to the Leased Property or Improvements and any warranties arising under any of them or in connection with the performance thereof, as the case may be.

Section 8.2 Assignment by City. City shall have the right, in City's sole discretion, to assign any of its rights under this Agreement (and in connection therewith, shall be deemed to have delegated its duties), and upon any such assignment, Lessee agrees that Lessee shall perform its obligations under this Agreement in favor of such assignee.

Section 8.3 Encumbrances. Lessee shall not encumber or permit the encumbrance of the Leased Property or any of Lessee's rights under this Agreement. Any purported encumbrance of rights in violation of this Section 8.3 is void.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 Waiver of Exemption. Any constitutional or statutory exemption of Lessee of any property usually kept on the Leased Property, from distress or forced sale, is waived.

Section 9.2 Addresses. All notices given under this Agreement to City shall be sent to the City in care of Solid Waste Director, City of Denton Solid Waste, 1527 S. Mayhill Rd. Denton, Texas 76208, with a copy to the City Attorney, City of Denton, at 215 E. McKinney, Denton, Texas 76201 and to the Real Estate Department 401 N. Elm St. Denton, Texas 76201, or such other place as City shall specify in writing. All notices given under this Agreement to Lessee shall be sent to:

Name _____

Address _____

City, State, ZIP _____

Telephone Number _____

E-mail address _____

Notices given under this Agreement to the Lender, if any, shall be sent to the address provided by the Lender to City in writing. Any notice properly mailed by registered mail, postage and fee prepaid, shall be deemed delivered when mailed, whether received or not, and all notices sent via overnight delivery service or email shall be deemed delivered when received.

Section 9.3 No Waiver. The waiver by City in writing of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Rent hereunder by City shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Agreement, other than the failure of Lessee to pay the particular Rent so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such Rent.

Section 9.4 Lessee's Subordination. Lessee hereby subordinates and makes this Agreement inferior to all existing and future mortgages, trust indentures or other security interest of City or City's successor in interest. Lessee shall execute and deliver to City any documents required to evidence and perfect such subordination.

Section 9.5 Additional Charges as Rent. Any charges assessed against Lessee by City for services or for work done on the Leased Property or the Improvements by order of Lessee or otherwise accruing under this Agreement shall be considered as Rent due.

Section 9.6 Non-Interference With Operation of the Landfill. Lessee expressly agrees for itself, its successors, and assigns that Lessee and its successors and assigns will not conduct operations in or on the Leased Property or the Improvements in a manner that in the reasonable judgment of City, (i) interferes or might interfere with the reasonable use or operation of the Landfill or Property by the City; (ii) hinders or might hinder police, fire fighting, or other emergency personnel in the discharge of their duties; (iii) would or would be likely to constitute a hazardous condition at the Landfill or Property; (iv) would or would be likely to increase the premiums for insurance policies maintained by City; (v) is in contradiction to any rule, regulation, directive, or similar restriction issued by agencies having jurisdiction over the Landfill or Property; or (vi) would involve any illegal purposes. In the event this covenant is breached, City reserves the right, after prior written notice to Lessee, to enter upon the Leased Property and the Improvements and cause the abatement of such interference at the expense of Lessee. In the event of a breach in security caused by Lessee, resulting in fine or penalty, such fine or penalty will be considered and charged to Lessee as Rent.

Section 9.7 Interpretation.

A. References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections, or exhibits of this Agreement, unless otherwise specified.

B. The terms “hereby,” “herein,” “hereof,” “hereto,” “hereunder,” and any similar terms used in this Agreement refer to this Agreement. The term “including” shall not be construed in a limiting nature, but shall be construed to mean “including, without limitation.”

C. Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

D. Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect the meaning, construction or effect of this Agreement.

E. Words importing the singular shall include the plural and vice versa. Words of the masculine gender shall be deemed to include correlative words of the feminine and neuter genders.

F. Capitalized terms in this Agreement that are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto shall have the meaning or definition ascribed to it herein. Absent such meaning or definition in this Agreement, such term shall have the meaning or definition ascribed to it in the LDGA between the Parties.

Section 9.8 Force Majeure. No act or event, whether foreseen or unforeseen, shall operate to excuse Lessee from the prompt payment of rent or any other amounts required to be paid under this Agreement. If City (or Lessee in connection with obligations other than payment obligations) is delayed or hindered in any performance under this Agreement by a force majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such force majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the Party so delayed or hindered. A “force majeure event” is an act or event, whether foreseen or unforeseen, that prevents a Party in whole or in part from performing as provided in this Agreement, that is beyond the reasonable control of and not the fault of such Party, and that such Party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to, acts of nature, war, riots, strikes, accidents, fire, epidemics, pandemics (but not the COVID-19 pandemic), viruses, diseases, quarantines, acts of government, public health emergencies and changes in law. Lessee hereby releases City and City’s officers, elected and appointed officials, employees, and agents from any and all liability, whether in contract or tort (including strict liability and negligence) for any loss, damage, or injury of any nature whatsoever sustained by Lessee, its employees, agents, or invitees during the Lease Term, including, but not limited to, loss, damage, or injury to the Leased Property or the personal property of Lessee that may be located or stored in, on or under the Leased Property or the Improvements due to a force majeure event.

Section 9.9 Governing Law and Venue. This Agreement has been made in and will be construed in accordance with the laws of the State of Texas. In any action initiated by one Party against the other, exclusive venue and jurisdiction will be in the appropriate state courts in and for Denton County, Texas.

Section 9.10 Amendments and Waivers. No amendment to this Agreement shall be binding on City or Lessee unless reduced to writing and signed by both Parties. No provision of this Agreement may be waived, except pursuant to a writing executed by the Party against whom the waiver is sought to be enforced.

Section 9.11 Severability. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect if both the economic and legal substance of the transactions that this Agreement contemplates are not affected in any manner materially adverse to any Party. If any provision of this Agreement is held invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.

Section 9.12 Relationship of Parties. This Agreement does not create any partnership, joint venture, employment, or agency relationship between the Parties. Nothing in this Agreement shall confer upon any other person or entity any right, benefit, or remedy of any nature.

Section 9.13 Further Assurances. Each Party shall execute any document or take any action that may be necessary or desirable to consummate and make effective a performance that is required under this Agreement.

Section 9.14 The Lessee hereby represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, "foreign terrorist organization" shall have the meaning given such term in Section 2252.151, Texas Government Code.

Section 9.15 Texas Local Government Code 2274.0102 Certification

The Lessee hereby represents that Mayhill Renewables, LLC is not:

(A) owned by or the majority of stock or other ownership interest in Mayhill Renewables, LLC is not held or controlled by:

(i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country under Section 2274.0102, Texas Government Code; or

(ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B) headquartered in China, Iran, North Korea, Russia, or a designated country.

Section 9.16 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together,

shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission (including pdf or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docuSign.com) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 9.17 Prohibition on Contracts with Companies Boycotting Israel. Lessee 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, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (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.

Section 9.18 Prohibition on Contracts with Companies Boycotting Certain Energy Companies. Lessee 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” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. By signing this agreement, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (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.

Section 9.19 Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations. Lessee 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, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (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 Agreement against a firearm entity or firearm trade association. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Section 9.20 Prohibition On Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization. Section 2252 of the Texas Government Code restricts City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. By signing this Agreement, Lessee certifies that Lessee’s signature provides written

verification to the City that Lessee, pursuant to Chapter 2252, is not ineligible to enter into this Agreement and will not become ineligible to receive payments under this Agreement by doing business with Iran, Sudan, or a foreign terrorist organization. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Section 9.21 Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies. The City of Denton may terminate this Agreement immediately without any further liability if the City of Denton determines, in its sole judgment, that this Agreement meets the requirements under Chapter 2275, and Lessee 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.

[SIGNATURE PAGES FOLLOW]

CITY

21

LESSEE

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the ____ day of _____, 2025.

CITY OF DENTON

By: _____
Sara Hensley, City Manager

ATTEST:
Lauren Thoden, City Secretary

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

By: _____

Signature

APPROVED AS TO LEGAL FORM:
Mack Reinwand, City Attorney

Title

By: _____

Department
Date Signed: _____

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DENTON §

This instrument was acknowledged before me on the ____ day of _____, 2025,
by Sara Hensley, City Manager of the City of Denton, on behalf of said municipality.

NOTARY PUBLIC, STATE OF TEXAS

MAYHILL RENEWABLES, LLC, LESSEE

By: _____

Name: PAUL MORROW

Title: PRESIDENT

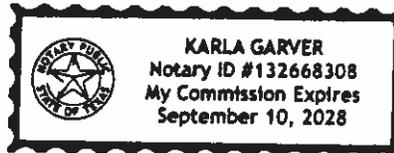
LESSEE NOTARY

THE STATE OF Texas §

COUNTY OF Midland §

This instrument was acknowledged before me on the 24 day of July, 2025, by Paul Morrow on behalf of said company.

Karla Garver
NOTARY PUBLIC, STATE OF TEXAS



**EXHIBIT A
LEASE PROPERTY**



Coleman & Assoc. Land Surveying

P. O. Box 686
Denton, Texas 76202
Phone (940)565-8215 Fax (940)565-9800
REGISTRATION #10095100

1.703 Acres of Land

FIELD NOTES to all that certain tract of land situated in the G. Walker Survey Abstract Number 1330, City of Denton, Denton County, Texas and being a part of Lot C, Solid Waste 1 as shown by the plat thereof recorded in Cabinet V, Page 987 of the Plat Records of Denton County, Texas; a part of the called 0.5050 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 207 of the Deed Records of Denton County, Texas; a part of the called 114.7 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 166 of the said Deed Records; a part of the called 2.6465 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 171 of the said Deed Records; part of the called 0.126 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 166 of the said Deed Records; and part of the called 0.4729 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 191 of the said Deed Records; the subject tract being more particularly described as follows:

BEGINNING for the Northeast corner of the tract being described herein at a 5/8 inch iron rod with a red plastic cap stamped "COLEMAN RPLS 4001" set (hereinafter referred to as 5/8IRS) in the North line of the current City of Denton Landfill Permit Boundary on the South side of an asphalt road and being South 88 Degrees 09 Minutes 42 Seconds East a distance of 95.66 feet from the Northeast corner of the said Lot C;

THENCE South 01 Degrees 12 Minutes 45 Seconds West departing the road across the 0.4729 acre tract a distance of 143.77 feet to a 5/8IRS for the Southeast corner of the herein described tract on the North side of an open ditch;

THENCE South 89 Degrees 50 Minutes 56 Seconds West along the North side of the said ditch across the 0.4729 acre tract passing at a distance of 97.3 feet the East line of Lot C and continuing along, in all, a total distance of 191.80 feet to a 5/8IRS for an angle point in the South line of the herein described tract;

THENCE North 01 Degrees 22 Minutes 14 Seconds West departing the North side of the ditch and continuing across Lot C a distance of 14.63 feet to a 5/8IRS for an angle point in the South line of the herein described tract;

THENCE North 87 Degrees 23 Minutes 07 Seconds West continuing across Lot C passing at a distance of 205.5 feet the West line thereof and across the 114.7 acre tract and the 0.5050 acre tract, in all, a total distance of 345.04 feet to a 5/8IRS for the Southwest corner of the herein described tract;

THENCE North 01 Degrees 41 Minutes 24 Seconds East across the 0.5050 acre tract a distance of 131.11 feet to a 5/8IRS for the Northwest corner of the herein described tract;

THENCE South 88 Degrees 09 Minutes 42 Seconds East across the said 0.5050 acre tract and the said 114.7 acre tract passing at a distance of 139.91 feet the Northwest corner of Lot C and continuing along the same course, in all, a total distance of 535.58 feet to the PLACE OF BEGINNING and enclosing 1.703 acres of land.

See accompanying Exhibit.



**Exhibit B
Temporary Construction Easement**

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

TEMPORARY CONSTRUCTION EASEMENT

**THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF DENTON §**

THAT the City of Denton ("Grantor"), a Texas home-rule municipal corporation, in consideration of the sum of Ten and No/100 Dollars (\$10.⁰⁰) and other good and valuable consideration in hand paid by _____ ("Grantee"), a _____ corporation, receipt of which is hereby acknowledged, has granted, bargained, sold, and conveyed, and does by these presents grant, bargain, sell, and convey unto Grantee a non-exclusive temporary construction easement for _____ (the "Construction Activities"), in, along, upon, under, and across the following described property owned by Grantor, and situated in Denton County, Texas, located in the _____ Survey, Abstract Number _____ (the "Property") to wit:

**PROPERTY AREA DESCRIBED AND
DEPICTED IN EXHIBIT "A"
ATTACHED HERETO AND MADE A PART HEREOF**

It is agreed that Grantee, in consideration of the benefits above set out, will remove from the Property such obstructions as may now be found upon said Property as reasonably necessary in connection with, and solely for the purpose of, the Construction Activities and access in, along, upon, under, and across said Property. Grantee shall not make changes in grade, elevation, or contour of the land or surface of the land within the Property, the project area, or other adjacent areas without the prior written consent of the City.

Grantee, its agents, employees, contractors, workmen, and representatives shall have the right of ingress, egress, and regress in, along, upon, under, and across said Property for the purpose of the Construction Activities or any part thereof.

Grantee hereby agrees to obtain all required permits and governmental approvals for its Construction Activities so as to meet all regulatory requirements and shall complete all construction in a workmanlike manner. Grantee shall not construct any permanent improvements on the Property hereunder that would continue to exist on the Property after the termination of this temporary construction easement without prior consent of the City. Upon completion of construction, Grantee shall promptly restore the surface of the Property, the project area, and any other area disturbed by its Construction Activities, including but not limited to the public roadway and adjoining pedestrian walkways, as applicable, to a condition that is substantially the same as or better than it existed prior to such construction, and shall leave the Property, the project area, and adjacent areas free of all trash, litter, refuse, and debris generated or resulting in connection with the Construction Activities.

TO HAVE AND TO HOLD said temporary construction easement unto the said Grantee until the earlier of (i) the completion of the Construction Activities, or (ii) ____ days after the Effective Date hereof (as hereafter defined), at which time this temporary construction easement will terminate and be of no further force and effect.

Witness my hand, this the _____ day of _____, 20__ (the "Effective Date").

GRANTOR:

CITY OF DENTON

BY: _____
Sara Hensley, City Manager

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

BY: _____

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

Signature

Title

Department

Date Signed: _____

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared **Sara Hensley**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same as the act and deed of the **City of Denton, a Texas home-rule municipal corporation**, as the **City Manager** thereof, for the purposes and consideration therein expressed, in the capacity therein stated and she is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____ 2021.

Notary Public, State of Texas

GRANTEE:

By: 
Printed Name: PAUL MORROW
Title: PRESIDENT

THE STATE OF Texas §
 §
COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this day personally appeared Paul Morrow, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of the

Maghill Renewables, LLC, as the President thereof, for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25th day of July 2025
Karla Garver
Notary Public, State of Texas





Landfill Gas-to Energy (LFGE) the City of Denton Landfill

Award of Contract 8465

**Brenda A. Haney, P.E., Director of
Solid Waste & Recycling**

Date: September 9, 2025

File ID 25-1498

SUSTAINABILITY/BENEFICIAL MEASURES

Current practice (i.e., flaring landfill gas) constitutes:

- Major maintenance expense
- Need for mechanized components
- Opportunity Costs associated with potential LFG sales revenue

Landfill Gas (LFG) is an asset of the City

- Processed LFG is a clean reusable commodity
- Beneficial reuse increases sustainability and lessens carbon footprint of Denton
- Beneficial reuse is a profitable and an environmentally responsible alternative



Historical Timeline

- Through 2020, the City was operating a LFG to Energy (LFGE) Facility which was subsequently de-commissioned
- The City commissioned a study on possible LFGE projects at the landfill, specifically refining the gas to high-Btu fuel
 - In 2023, the City issued a RFP for a LFGE project but this never progressed due to negotiations
 - In 2024, the City issued a RFP for a LFGE project which has been evaluated and Morrow Energy was selected
- City has installed a gas collection infrastructure
 - 139 gas collection wells onsite to collect LFG
- Currently, all landfill gas is diverted to a flare station, then destroyed (“flared off”)



Project Schedule & Action Requested

- In May 2024, a RFP for a Landfill gas to Energy Project was released
- In August 2024, Morrow Energy operating as Mayhill Renewables was selected
- Mayhill Renewables will assume wellfield operations; expand the existing wellfield; improve overall gas collection; clean and compress the LFG to sell in the open market
- Council Action Requested
 - Approve ordinance authorizing the City Manager to execute the Lease Agreement and the Gas Rights Agreement



Questions?

Brenda Haney

Director Solid Waste & Recycling



25-1498

September 9, 2025

5

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AND LEASE AGREEMENT WITH MAYHILL RENEWABLES, LLC, TO DESIGN, FABRICATE, CONSTRUCT, COMMISSION, AND OPERATE A RENEWABLE NATURAL GAS (RNG) FACILITY TO TREAT LANDFILL AND DIGESTER GAS AT THE CITY OF DENTON LANDFILL FOR THE SOLID WASTE AND WATER UTILITIES DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8465 – AWARDED TO MAYHILL RENEWABLES, LLC, FOR A PRIMARY CONSTRUCTION PHASE AND TWENTY (20) YEAR TERM).

WHEREAS, the City has solicited, received, and evaluated competitive proposals to design, fabricate, construct, commission, and operate a Renewable Natural Gas (RNG) Facility to treat landfill and digester gas at the City of Denton Landfill for the Solid Waste and Water Utilities Departments; and

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

WHEREAS, the City Manager, or a designated employee, has received and 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; 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.

<u>RFP NUMBER</u>	<u>CONTRACTOR</u>
8465	Mayhill Renewables, LLC

SECTION 2. 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. Should the City and person submitting approved and accepted items and of the submitted proposals 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 _____ 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.

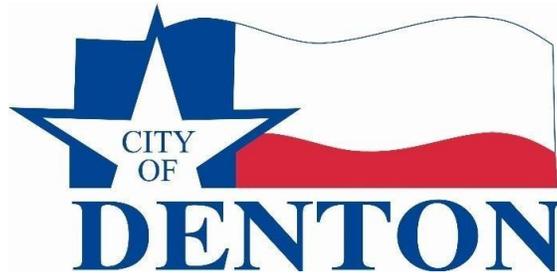
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



DocuSign City Council Transmittal Coversheet

RFP	8465
File Name	LANDFILL GAS TO ENERGY
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

LANDFILL & DIGESTER GAS AGREEMENT

THIS LANDFILL & DIGESTER GAS AGREEMENT (“Agreement”), effective _____, 2025, is entered into by and between the CITY OF DENTON, DENTON, TEXAS (“COD”), a Texas home-rule municipal corporation and MAYHILL RENEWABLES, LLC (“MHR”), a Texas limited liability company (each individually a “Party” and collectively, the “Parties”).

RECITALS

- A. WHEREAS, COD owns and operates the Landfill (as defined herein);
- B. WHEREAS, COD owns and operates the WWTP (as defined herein), which produces Digester Gas (defined herein);
- C. WHEREAS, COD owns and operates the GCCS (as defined herein) at the Landfill through which COD collects and manages Landfill Gas (as defined herein);
- D. WHEREAS, MHR designs and operates Landfill Gas processing facilities, converting Landfill Gas to High-BTU Gas (defined herein);
- E. WHEREAS, MHR designs and operates processing facilities, converting Digester Gas to High-BTU Gas;
- F. WHEREAS, MHR desires to purchase Landfill Gas and Digester Gas from COD and to construct and operate facilities at the Landfill to process Biogas, creating High-BTU Gas for sale;
- G. WHEREAS, COD desires to have MHR construct and operate facilities at the Landfill, creating High-BTU Gas, and to receive a royalty payment from the sale of High-BTU Gas by MHR; and
- H. WHEREAS, MHR acknowledges that the primary purpose of the Landfill is and shall remain as a municipal solid waste landfill and that collecting and treating Landfill Gas shall remain secondary to Landfill’s continued use as a municipal solid waste landfill;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used herein the following terms shall have the following meanings:

- 1.1. “Air Permits” means permit number O2059 (Title V), and all permits referenced therein, including Standard Air Permit 80971 issued by the TCEQ, as the Air Permits may be amended or modified from time to time.
- 1.2. “Affiliate” means, with respect to any Person, any other Person that directly or indirectly, or through one or more intermediaries, Controls, is Controlled by, or is under common Control with such Person. “Control” for purposes of this definition includes, without limitation, the ability to vote fifty percent (50%) or more of the voting equity of a Person.
- 1.3. “Alternative Supply” has the meaning given in Section 4.2.2.
- 1.4. “Bankruptcy Code” the United States Code governing insolvency and debt adjustment as amended or replaced.

- 1.5. “Biogas” means collectively Landfill Gas and/or Digester Gas.
- 1.6. “Blower-Flare Facility” means all piping, equipment and appurtenances designated as Blower-Flare Facility on Exhibit 1-B, which exhibit is incorporated fully herein.
- 1.7. “BTU” means British Thermal Unit; the amount of heat required to raise the temperature of one pound of pure water from 60 degrees Fahrenheit to 61 degrees Fahrenheit.
- 1.8. “COD’s Permits” means the Air Permit, Landfill Permit and the WWTP Permit.
- 1.9. “COD Indemnities” has the meaning given in Section 12.1.
- 1.10. “Commercial Operations Date” means the date MHR is able to treat, process and/or manage Biogas, produce High-BTU Gas, deliver such High-BTU Gas to the Sales Interconnection Point, and for such High-BTU Gas to be received by the interconnecting pipeline at the Sales Interconnection Point; but in no event shall the Commercial Operations Date be later than two hundred seventy (270) days following the Effective Date, subject to MHR successfully obtaining (i) a Sales Interconnection Point, (ii) EPA pathway approval designating Biogas eligible for RINs, (iii) all necessary utility services, and (iv) all necessary permits.
- 1.11. “Contractor” means the contractor hired by MHR to construct the MHR Facilities.
- 1.12. “Cure Period” has the meaning given in Section 7.3.2.1.
- 1.13. “Default Notice” has the meaning given in Section 7.3.2.1.
- 1.14. “Digester Gas” means methane, carbon dioxide, and other gases produced at the WWTP.
- 1.15. “Effective Date” means the date on which this Agreement shall be effective.
- 1.16. “EPA” means the Environmental Protection Agency, including its predecessor and successor agencies.
- 1.17. “Engineer Standards of Performance”
- A. Standard of Care: The standard of care for all professional engineering and related services performed or furnished by an engineer under this Agreement or as related to engineering performed in relation to this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.
 - B. Technical Accuracy: COD shall not be responsible for discovering deficiencies in the technical accuracy of engineer’s services.
 - C. An engineer performing any obligations of this Agreement shall comply with applicable laws and regulations.
- 1.18. “Engineering Practices Act” means Chapter 1001 of the Texas Occupations Code as amended or replaced.
- 1.19. “Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the extraction, collection, and recovery of Biogas including the generation of energy, or its displacement of conventional energy generation.

By way of example, Environmental Attributes include, but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights (Green Tag Reporting Rights being the right of a Green Tag purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other Party at the Green Tag purchaser's discretion); (4) any RINs associated with the EPA's Renewable Fuels Standard program; and (5) LCFS credits, carbon credits, or any other or future credits associated with Biogas.

Environmental Attributes do not include (i) production tax credits associated with the construction or operation of MHR's Facilities, or any other associated contract or right, and other financial incentives in the form of credits, reductions, or allowances associated with MHR's Facilities or the Landfill that are applicable to a state or federal income taxation obligation, or (ii) emission reduction credits encumbered or used by MHR's Facilities for compliance with local, state, or federal operating and/or air quality permits.

1.20. "Environmental Laws" shall mean any applicable federal, state, or local governmental law, statute, rule, regulation, order, consent decree, decree, judgment, permit, license, covenant, deed restriction, ordinance or other requirement or standard relating to pollution or the regulation or protection of health, safety, natural resources, or the environment, now existing or hereafter in effect, including, without limitation, those relating to the release, discharge, emission, injection, leaching, or disposal of solid waste or Hazardous Substances or pollution into air, water, land or groundwater; to the withdrawal or use of groundwater; or to the use, handling, treatment, removal, storage, disposal, processing, distribution, transport, or management of solid waste or Hazardous Substances. "Environmental Laws" shall include, but shall not be limited to, the Clean Air Act; the federal Water Pollution Control Act; the Safe Drinking Water Act; the Toxic Substances Control Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Resource Conservation and Recovery Act; the Occupational Safety and Health Act; the Hazardous Materials Transportation Act; the Oil Pollution Act of 1990; Chapter 30 of the Tex. Admin. Code (including odor and landfill gas migration requirements), Federal Plan OOO and NESHAP AAAA requirements, civil odor nuisance requirements, and any similar federal, state, or local statutes, ordinances, and regulations.

1.21. "Facility Downtime" means the amount of time that MHR's Facility is not actively delivering High-BTU Gas to the Sales Interconnection Point.

1.22. "Fault" has the meaning given in Section 12.1.

1.23. "Final Engineering and Design Plans and Specifications" has the meaning given in Section 5.1.2.

1.24. "First Extension" has the meaning given in Section 7.2.1.

1.25. "Flare Meter(s)" means the meter, or combination of meters, that measure the flow of LFG to all the flares, inclusive of the Blower-Flare Facility, MHR's Flare, and any flares that may be

installed in the future.

1.26. “Force Majeure” means acts of God; winds; hurricanes; tornadoes; fires; pandemic (but not the COVID-19 pandemic); epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; extended closures of banks and/or financial institutions; acts of public enemies; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances; explosions; or any other cause or event, not reasonably within the control of the Party claiming Force Majeure (other than the financial inability of such Party), which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement.

1.27. “Gathering System Operations Date” means the date that MHR assumes its responsibilities relating to the GCCS and Blower-Flare Facility, as detailed in Section 6.1.1, but in no event shall the Gathering System Operations Date be later than the first (1st) day of the calendar month following ninety (90) days after the Effective Date.

1.28. “GCCS” means the Gas Collection and Control System, comprised of the system of wells and piping that collects or assists in the collection and destruction of Landfill Gas from the Landfill, including but not limited to, extraction wells, horizontal wells, lateral and header piping, valves, sumps, wellheads, air supply piping, liquid force-main piping, pumps, blowers, motors, flares, air compressors, flow meters, flare facility controls, any monitoring and recording device, the Blower-Flare Facility, Meters, and other appurtenances. Future expansions of the GCCS shall be considered part of the GCCS, but the GCCS shall not include any equipment installed downstream of the Landfill Connection Point.

1.29. “GCSS Vacuum Failure Event” has the meaning given in Section 7.3.2.4.

1.30. “Green Tag” means renewable energy certificates that represent the intangible environmental attributes associated with producing one (1) megawatt hour of electricity from a renewable resource.

1.31. “Gross Revenues” means all Biogas sources of income, including revenues received by MHR from the sale of High BTU Gas (including the value of any exchange services or similar in-kind exchanges relating to the sale or use of High BTU Gas, if any) and related by-products, and the value of any Environmental Attributes made available to MHR; provided that, with respect to sales by MHR to a related Party (i.e., one in which MHR or an Affiliate of MHR has an interest), such sales shall be valued at market value, regardless of the price charged by MHR. MHR agrees to disclose to COD any contractual provisions that provide for any exchanged services or similar in-kind exchanges in place of the receipt of revenues relating to the processing, destruction, sale or use of Biogas, or High BTU Gas, if any, it being the intent of the Parties that the market value of such in-kind exchanges, as reasonably determined by the Parties, will be included in the determination of Gross Revenues. Tax credits are not included in Gross Revenues.

1.32. “Hazardous Substances” means any substance as defined by Environmental Laws, and shall further include Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS), polychlorinated biphenyls or substances containing polychlorinated biphenyls, asbestos or materials containing asbestos, urea formaldehyde foam insulation, petroleum or petroleum products, flammable or explosive substances, radon gas, and any other wastes, pollutant, contaminant, material, chemical, gas or other substance that could subject any person to liability for costs of cleanup, removal, response or remediation or the exposure to which is prohibited, limited or regulated.

1.33. “Hazardous Wastes” means any waste material – solid, liquid, or gaseous – that because of

its quantity, concentration, or physical, chemical or infectious characteristic may cause or significantly contribute to an increase in mortality, serious irreversible illness, or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

1.34. “High-BTU Gas” means Biogas, whether processed or not, that is sold by MHR.

1.35. “Indemnified Claims” has the meaning given in Section 12.1.

1.36. “Initial Design Capacity” means the capacity of MHR’s Facility to process Biogas into High-BTU Gas, which shall be five thousand (5,000) scfm upon the Commercial Operations Date.

1.37. “Initial Term” has the meaning given that term in Section 7.1. of this Agreement.

1.38. “Landfill” means COD’s Disposal Facility Landfill located at 1527 S MAYHILL, DENTON, TEXAS 76208, and subject to the Landfill Permit.

1.39. “Landfill Connection Point” means, the location shown on Exhibit 1, the point of interconnection between COD’s GCCS and MHR’s Facility.

1.40. “Landfill Gas” and “LFG” shall mean methane, carbon dioxide, and other gases produced at the Landfill.

1.41. “Landfill Permit” means permit number MSW 1590B issued by the TCEQ, as it may be amended from time to time.

1.42. “LCFS” means low carbon fuel standard.

1.27 “Losses” means claims, losses, liability, damages, penalties, fines, costs, and expenses, including, without limitation, reasonable attorneys’ fees, expert witness fees, litigation expenses, and court and other costs, whether taxable or not.

1.28 “Meters” means, collectively, the methane analyzer and flow meters to measure the quality and/or quantity of LFG delivered to the Blower-Flare Facility, MHR’s Flare and/or the Sales Interconnection Point, as shown on Exhibit 1.

1.29 “MMBTU” means one million BTUs.

1.30 “MHR’s Facility” or “MHR’s Facilities” means all facilities installed by MHR to (i) enable MHR to interconnect with the GCCS at the Landfill Connection Point, (ii) accept delivery of Landfill Gas at the Landfill Connection Point; (iii) enable MHR to interconnect with the WWTP at the WWTP Connection Point, (iv) accept delivery of Digester Gas at the WWTP Connection Point, (iv) treat, process, and/or manage Biogas to produce High-BTU Gas; and (vi) deliver High-BTU Gas to the Sales Interconnection Point.

1.31 “MHR’s Flare” means the flare that is part of MHR’s Facility.

1.32 “MHR Permit” has the meaning given in Section 5.2.1.

1.33 “Mod Application” has the meaning given in Section 5.2.1.

- 1.34 “NMOCs” means nonmethane organic compounds.
- 1.35 “NSPS” means New Source Performance Standards for Municipal Solid Waste Landfills: federal EPA rules, which regulate the amount of NMOCs a landfill can emit into the atmosphere, including 40 Code of Federal Regulations Part 60, as they may be amended from time-to-time.
- 1.36 “OSHA” has the meaning given in Section 6.3.1.
- 1.37 “Person” means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, or other entity, or a government or any political subdivision or agency thereof, or any trustee, receiver, custodian, or similar official.
- 1.38 “Reimbursable Costs,” pursuant to Section 4.3, means expenditures or investments made by MHR at the Landfill, including premiums and interest, recovered by MHR through a reduction in the royalty paid to COD.
- 1.39 “Removal Period” has the meaning given in Section 7.5.
- 1.40 “Requested Termination Date” has the meaning given in Section 7.3.3.2.1.
- 1.41 “RINs” means Renewable Identification Numbers.
- 1.42 “Sales Interconnection Point” means the point at which custody of High-BTU Gas produced from MHR’s Facility is transferred to a transportation pipeline.
- 1.43 “Sales Pipeline Meters” means the Meters located at Sales Interconnection Point, if any.
- 1.44 “Service Contract” means the contract between the Contractor and MHR.
- 1.45 “Site” means the premises described in Exhibit 2 to this Agreement.
- 1.46 “Subsequent Extensions” has the meaning given in Section 7.2.2.
- 1.47 “TCEQ” means the Texas Commission on Environmental Quality, including its predecessor and successor agencies.
- 1.48 “Term” has the meaning given in Section 7.2.5.
- 1.49 “Termination Notice” has the meaning given in Section 7.3.3.2.
- 1.50 “Test Period” has the meaning given that term in Section 7.3.3.5.
- 1.51 “Unused Biogas” means LFG or Digester Gas not sold by MHR and not defined as Waste Gas.
- 1.52 “Utilization Trigger” has the meaning given that term in Section 6.2.2.2.
- 1.53 “Waste Gas” means any LFG or Digester Gas that has been fully or partially processed by MHR’s Facility and not sold by MHR.
- 1.54 “Wastewater Treatment Plant” or “WWTP” means COD’s Pecan Creek Water

Reclamation Plant located at 1100 S MAYHILL, DENTON, TEXAS 76208.

1.55 “WWTP Connection Point” means the point of interconnection between the WWTP and MHR’s Facilities.

1.56 “WWTP Permit” means permit number WQ0010027003 issued by the TCEQ, as may be amended or modified from time to time.

ARTICLE II: FACILITIES

2.1. COD’s Facilities.

2.1.1. COD has the responsibility to manage the Landfill in compliance with Environmental Laws, and all Landfill and WWTP Permits including Air Permits. Notwithstanding anything in this Agreement to the contrary, MHR recognizes that COD’s and MHR’s responsibilities to comply with Environmental Laws, including, without limitation, those pertaining to solid waste management, water/wastewater management, and air pollution, take priority over Landfill Gas production. Consequently, each obligation of COD and MHR set forth in this Agreement is conditioned on maintaining the Landfill’s safe operation and regulatory compliance, and COD’s and MHR’s obligations to comply with Environmental Laws, including the Landfill Permit and the Air Permit, are paramount to any rights granted to MHR under this Agreement. MHR agrees to take no action that would cause a violation of Environmental Laws, including the Landfill Permit and the Air Permit. Within five (5) days of the Effective Date, unless provided sooner, COD shall provide a copy of the Landfill and WWTP Permits and the Air Permits to MHR, and MHR shall become familiar with COD’s obligations thereunder. Except as necessary to comply with Environmental Laws, including the Landfill and WWTP Permits and Air Permit or to protect public health and safety, COD shall not take any intentional and unnecessary action that would materially harm the rights of MHR under this Agreement.

2.1.2. Nothing in this Agreement shall be construed to mean that COD does not retain ownership of the Landfill GCCS and Blower-Flare Facility.

2.1.3. Beginning on the Gathering System Operations Date and throughout the Term, MHR will operate, modify as necessary, and maintain the GCCS and Blower-Flare Facility as described herein.

2.1.4. Except as provided in Section 2.1.5, MHR shall be solely responsible for obtaining and paying for all utilities, including extensions of service, installation, and ongoing service, including utilities for the GCCS, and MHR’s Facility. MHR acknowledges that no high-speed internet service is available to the Site. COD shall be solely responsible for paying for all utilities for the Blower-Flare Facility.

2.1.5. COD will provide water to MHR’s Facility on the same terms and conditions as other similarly situated entities in the City of Denton. Specifically, service to MHR will be subject to COD Rate Ordinance, as amended, and all other applicable COD ordinances, policies, and regulations as all are amended from time to time. MHR shall be solely responsible for designing, connecting to, and extending a water line from COD’s existing water line to MHR’s Facility, along a route agreed to by COD. MHR shall use the water only for normal office use. MHR may not resell the water. Should any state or local code or other regulatory entity require a fire suppression sprinkler system within MHR’s Facility, MHR shall be responsible for verifying and installing the appropriate size water main to handle the anticipated flow rates and pressures required for the fire suppression system. COD does not warrant that it can or will provide sufficient water for fire suppression.

2.1.6. COD shall be solely responsible for insuring the GCCS and the Blower-Flare Facility.

2.1.7. MHR shall not incur or create any liens, levies, and encumbrances of any nature or kind (except liens, levies, and encumbrances created by COD) on the GCCS, the Blower-Flare Facility, or any other COD property, whether real or personal, and shall at all times take whatever action is necessary to keep the GCCS, the Blower-Flare Facility, or any other COD property, free of any liens, levies, and encumbrances of any nature or kind (except liens, levies, and encumbrances created by COD).

2.1.8. COD owns and operates the WWTP and has the responsibility to manage the WWTP in compliance with Environmental Laws, permits, and regulations.

2.2. MHR's Facilities.

2.2.1. MHR shall make all necessary filings and obtain all governmental authorizations necessary to (i) provide for and continue the delivery of Landfill Gas to the Landfill Connection Point, (ii) receive Digester Gas from the WWTP Connection Point, (iii) process such Biogas, and (iv) enable the subsequent use of such processed Biogas by MHR. COD shall cooperate with MHR (at no out-of-pocket cost to COD) in connection with such filings. MHR shall keep COD apprised of its progress toward obtaining the necessary authorizations.

2.2.2. MHR shall be solely responsible for the design, installation, and operation of MHR's Facilities, including, without limitation, all pipeline connection fees, regardless of whether such work is performed by MHR, a subcontractor, or by anyone directly or indirectly employed by any of them to perform any of the design, installation or operation of MHR's Facilities. MHR shall: (i) design, construct, install, operate, and maintain MHR's Facilities in accordance with Engineer Standards of Performance and in compliance with applicable laws, including all governmental approvals, any required permits, and, without limitation, Environmental Laws, and (ii) obtain all necessary authorizations to construct and operate MHR's Facilities.

2.2.3. MHR and COD shall use reasonable, good-faith efforts to coordinate the installation and maintenance of interconnections between their respective facilities. MHR will be responsible for all costs and expenses of bringing and connecting the respective facilities of COD and MHR to the Landfill Connection Point and the WWTP Connection Point.

2.2.4. MHR shall be solely responsible for the design, construction, operation, maintenance, modification, repair, income taxes, insuring, and regulatory compliance of MHR's Facility.

2.2.5. MHR shall be solely responsible for all costs and expenses of securing rights-of-way for the pipeline from MHR's Facility to the Sales Interconnection Point. COD will provide necessary easements and/or rights-of-way on COD property to MHR at no cost.

2.2.6. MHR shall not incur or create and shall, at all times, take whatever action is necessary, to keep MHR's Facilities free of, liens, levies, and encumbrances of any nature or kind; provided, however, nothing herein shall be construed to prohibit MHR from creating a lien on MHR's Facilities in connection with any financing of such facility.

2.3 Respective Duties.

2.3.1. MHR's and COD's respective duties are further set forth in Exhibit 3 hereto, which is incorporated fully herein; however, no representation is made that each Party's respective duties are fully set forth in Exhibit 3. Any duty not set forth explicitly in Exhibit 3, and in the case of a conflict between the duties as set forth in Exhibit 3 and as otherwise in this Agreement shall be governed by the terms and provisions otherwise set forth in this Agreement.

ARTICLE III. PURCHASE, TREATMENT, AND SALE OF BIOGAS

3.1. Title to and Responsibility for Biogas.

3.1.1. Beginning on the Commercial Operations Date and through the Term, COD shall transfer ownership of Biogas, free of any and all encumbrances, including all Environmental Attributes associated with Biogas, to MHR at the Landfill Connection Point and the WWTP Connection Point in exchange for a royalty described in Article IV. MHR shall purchase all Biogas delivered to the Landfill Connection Point and the WWTP Connection Point, as measured by the Meters, as described in this Agreement, after the Commercial Operations Date, including (i) LFG and Digester Gas converted to High BTU Gas and (ii) flared LFG and Digester Gas. MHR, as operator of the GCCS and Blower-Flare Facility, shall be solely responsible for delivery of Landfill Gas to the Landfill Connection Point and to MHR's Facilities or to the Blower-Flare Facility and the delivery of Digester Gas, received at the WWTP Connection Point, to MHR's Facilities or to the Blower-Flare Facility. Ownership and title to Landfill Gas shall pass from COD to MHR at the Landfill Connection Point. Ownership and title to Digester Gas shall pass from COD to MHR at the WWTP Connection Point. Control, liability, and risk of loss with regard to Landfill Gas shall pass from COD to MHR when the Landfill Gas enters the GCCS.

3.1.2 Beginning on the Commercial Operations Date and through the Term, COD grants MHR the exclusive right to treat, process, and sell all Landfill Gas produced at the Landfill and sell all Digester Gas produced at the WWTP. Except as otherwise provided herein, MHR shall (a) process and treat Landfill Gas collected by the GCCS to create a High-BTU Gas in compliance with COD's Permits and Environmental Laws, and (b) process and treat Digester Gas received at the WWTP Connection Point to create a High-BTU Gas in compliance with COD's Permits and Environmental Laws.

3.2. Delivery of Landfill Gas.

3.2.1. In no event shall COD be obligated to provide, sell, or deliver an amount of Landfill Gas in excess of the actual production of Landfill Gas from the Landfill, or in excess of the amount of Landfill Gas that can be withdrawn from the Landfill safely and in compliance with the Landfill Permit and Environmental Laws.

3.2.2. In the event MHR's Facility is shut down for any reason, or MHR fails, for any reason, to take and process all Landfill Gas made available to MHR, MHR shall immediately divert the LFG to the Blower-Flare Facility and promptly notify COD. MHR's inability to process Landfill Gas shall not release MHR from the obligation to accept Landfill Gas at the Landfill Connection Point, to meet the requirements of all Environmental Laws, and to pay for Landfill Gas in accordance with Article IV. If the GCCS is shut down for longer than four (4) hours in any 24-hour period, MHR shall notify COD in writing within twenty-four (24) hours of the beginning of the shutdown. However, in any event, MHR shall be responsible for compliance with all regulatory notice requirements pursuant to Environmental Laws.

3.2.3. MHR shall give COD at least three (3) business days' notice if MHR's Facility is to be taken out of operation for scheduled repairs or other reasons.

3.2.4. In order to (i) address emergency situations, (ii) maintain compliance with the Landfill Permit or Environmental Laws, and/or (iii) protect human health or risk to the environment (and only for those reasons), COD shall have the option, but not the obligation, to cease providing Landfill Gas. To the extent practicable under the circumstances at the time, COD shall provide notice to MHR prior to any such suspension. MHR acknowledges that it is not COD's responsibility to ensure that MHR is operating safely or legally. Thereafter, COD and MHR shall promptly meet to discuss possible remedies. As soon as practical after the situation has been addressed, COD shall resume providing Landfill Gas.

3.2.5. MHR shall not reduce the capacity of MHR's Facility below the Initial Design Capacity without the express written consent of COD, such consent to be granted or denied in COD's sole discretion.

3.3. Delivery of Digester Gas.

3.3.1. In no event shall COD be obligated to provide, sell, or deliver an amount of Digester Gas in excess of actual production.

3.3.2. In the event MHR's Facility is shut down for any reason, or MHR fails, for any reason, to take and process all Digester Gas made available to MHR, MHR shall immediately divert the Digester Gas to the Blower-Flare Facility and promptly notify COD. MHR's inability to process Digester Gas shall not release MHR from the obligation to accept Digester Gas at the WWTP Connection Point, to meet the requirements of all Environmental Laws, and to pay for Biogas in accordance with Article IV. If MHR's Facility is shut down for longer than four (4) hours in any 24-hour period, MHR shall notify COD in writing within twenty-four (24) hours of the beginning of the shutdown. However, in any event, MHR shall be responsible for compliance with all regulatory notice requirements pursuant to Environmental Laws.

3.2.3 MHR shall give COD at least three (3) business days' notice if MHR's Facility is to be taken out of operation for scheduled repairs or other reasons.

3.2.3 In order to (i) address emergency situations, (ii) maintain compliance with the WWTP Permit or Environmental Laws, and/or (iii) protect human health or risk to the environment (and only for those reasons), COD shall have the option, but not the obligation, to cease providing Digester Gas. To the extent practicable under the circumstances at the time, COD shall provide notice to MHR prior to any such suspension. MHR acknowledges that it is not COD's responsibility to ensure that MHR is operating safely or legally. Thereafter, COD and MHR shall promptly meet to discuss possible remedies. As soon as practical after the situation has been addressed, COD shall resume providing Digester Gas.

3.4. Metering Equipment.

3.4.1. MHR shall, at no cost to COD, install, operate, and maintain, in accurate working order, separate Meters to measure the flow and quality of each of Landfill Gas and Digester Gas (including BTU per cubic foot). Such Meters shall be mutually acceptable to COD and MHR, and are identified in Exhibit 1.

3.4.1.1. The Meters shall be configured to take and record flow readings

in standard cubic feet (“SCF”) per minute no less often than every ten (10) minutes. MHR’s Flare Meters and the Sales Pipeline Meters shall be configured to take and record energy content readings in BTU/SCF no less often than every ten (10) minutes.

3.4.1.2. MHR shall calculate the amount of energy (in MMBTUs) each day sent to the Blower-Flare Facility, using the data recorded pursuant to Section 3.4.1.1, multiplied by 0.5 (accounting for an assumption hereby agreed upon by the Parties that the LFG is 50% methane), and multiplied by 0.001 MMBTU/cubic foot of methane.

3.4.1.3 MHR shall calculate the amount of energy (in MMBTUs) each day sent to MHR’s Flare Meters and the Sales Pipeline Meters, by multiplying the flow readings by the energy content readings recorded pursuant to Section 3.4.1.1.

3.4.2. MHR shall test the Meters no less than once per quarter. Notification of any proposed test shall be provided to COD at least seventy-two (72) hours prior to such test being conducted. COD may observe such test, if COD so desires. Copies of the results of each test, whether or not COD observes such test, shall be provided to COD within seven (7) days following each test.

3.4.3. COD shall have access to, and may test, at COD’s cost, the Meters, at all reasonable times, provided COD provides MHR with a minimum of seventy- two (72) hours’ notice prior to testing the Meters, so that MHR can have a representative present, at MHR’s discretion.

3.3.4 If the accuracy of the Meters is less than +/- five percent (5%), MHR shall calibrate or repair the Meters as soon as practicable. For purposes of calculating payments in accordance with Article IV during the time that the Meters were not accurate, the registration of the defective meter shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable; or, if such time is not ascertainable, then for a period extending back one half (1/2) of the time elapsed since the date of the last test, but in no event further back than a period of six (6) months.

3.3.5. MHR shall calibrate the Meters no less than once per year. All calibration of the Meters shall be performed by an independent third party qualified to perform calibration of the Meters. Within thirty (30) days following each calibration, MHR shall provide a certificate of calibration to COD from the third-party calibrator.

3.3.6. COD shall have the option but not the obligation, at COD’s expense, to install, maintain, and operate additional meters, instruments, and other equipment, for verifying the Meters. MHR’s Meters shall be presumed correct unless testing confirms that the Meters are inaccurate, provided that the additional meters do not interfere with the correct operation of the Meters. MHR shall install a one-inch (1”) port for COD’s use at a sufficient distance from the Meters for verification of the Meters.

3.3.7. If the Meters are out of service or out of repair so that the quantity or quality of LFG cannot be determined, the LFG delivered during the period the Meters are out of service or out of repair shall be estimated and agreed upon by the Parties based upon the best data available. The basis for estimating the LFG quality or quantity includes, but is not limited to, measurements by COD’s meters, if any, or extrapolation of past patterns for the Meters under similar conditions.

3.5. “AS-IS” Condition; No Warranties.

ALL BIOGAS SHALL BE TAKEN BY MHR IN AN “AS IS” CONDITION. MHR

ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR ITS OWN DUE DILIGENCE AS TO THE QUALITY OF BIOGAS SOLD HEREUNDER AND THAT COD MAKES NO WARRANTY CONCERNING THE QUALITY OR QUANTITY OF THE BIOGAS. ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE BIOGAS SOLD HEREUNDER. MHR RECOGNIZES THAT BIOGAS MAY CONTAIN CORROSIVE OR DELETERIOUS SUBSTANCES. COD SHALL HAVE NO OBLIGATION TO PAY COSTS FOR REPAIR OR REPLACEMENT OF MHR'S FACILITIES CAUSED BY SUCH SUBSTANCES AND MHR ACCEPTS THE RISK OF SUCH SUBSTANCES.

3.6. Risks.

MHR shall incur all permitting, market, resource, non-specification energy, changes in law, construction, and performance-related risks.

3.6.1. Resource risks refer to all risks associated with the quality and/or quantity of Biogas, including risks that Biogas may damage MHR's Facility.

3.6.2. Non-specification energy risks refer to all risks associated with the quality and/or quantity of High-BTU Gas, including risks that High-BTU Gas may cause damage to MHR's equipment or to a downstream purchaser's equipment.

ARTICLE IV. PRICE, ROYALTIES, BILLING AND PAYMENTS

4.1. High-BTU Gas Sales.

MHR shall be solely responsible for, and shall have sole discretion regarding, the sale of High-BTU Gas, including the negotiation of gas sales agreements; provided, that MHR shall keep COD apprised of major developments in its negotiation of gas sales agreements. If, within two hundred and forty (240) days from the Effective Date, MHR is unable, notwithstanding its best efforts, to obtain the necessary rights-of-way, permits, and/or approvals, or is otherwise unable to develop an economically viable, High-BTU Gas treatment facility at the Landfill, MHR will provide written notice to COD to that effect.

4.2. Price and Royalties.

4.2.1. Effective after the Commercial Operations Date, MHR shall pay COD a royalty, as shown on Exhibit 4. MHR may reduce the amount to be paid to COD for the recovery of Reimbursable Costs, per Section 4.3.

4.2.2. Reflecting the goal to optimize revenue from the sale of Digester Gas produced at the WWTP, MHR will procure non-Biogas, natural gas (the "Alternative Supply") and deliver such Alternative Supply to the WWTP for its use, increasing the quantity of available Biogas to be sold as High-BTU Gas. The royalty paid to COD for Digester Gas will reflect the impact on Gross Revenues to procure and provide such Alternative Supply.

4.2.3. MHR shall be entitled to all Environmental Attributes, tax credits, and other credits, including, but not limited to the proceeds from the sale of such Environmental Attributes, tax credits, and other credits.

4.2.4. MHR's Facility shall be permitted a maximum of 5% of Facility Downtime (exclusive of Force Majeure events) per year (the first year beginning on the Commercial Operations Date and each subsequent year beginning on the first day of the first full month following the anniversary of the Commercial Operations Date). MHR shall pay twenty-five cents (\$0.25) per MMBTU for all Biogas flared by either the Blower-Flare Facility or the MHR Flare, after the first 438 hours of flaring per year. By way of explanation:

4.2.4.1. If, in year 2, the combined time that the Blower-Flare Facility and the MHR Flare is flaring Biogas is 438 hours or less, MHR would not be required to pay for the Biogas that was flared in either flare;

4.2.4.1.1. If, in year 2, the combined time that the Blower-Flare Facility and the MHR Flare is flaring Biogas is 538 hours, MHR would not be required to pay for the Biogas that was flared during the first 438 hours; but, would be required to pay \$0.25 per MMBTU (based on the assumption that the Biogas' energy value is 50% as provided in Section 3.4.1.2) for the Biogas that was flared during the last 100 hours (from the 438th hour through the 538th hour).

4.3. Royalty Reductions and Reimbursable Costs.

4.3.1 To allow MHR to recover Reimbursable Costs, MHR may reduce the monthly royalty paid to COD by 50% per month (or some amount larger than 50%, at COD's discretion), until the Reimbursable Cost balance is reduced to zero. At COD's discretion, COD may elect to pay the full amount within thirty (30) days after MHR invoices the Reimbursable Cost, rather than through a royalty reduction.

4.3.2. Reimbursable Costs are limited to:

4.3.2.1. cost to repair one or more of the pieces of equipment as further described in Section 6.1.2;

4.3.2.2. cost to expand the Blower-Flare Facility as further described in Section 6.2.2.1;

4.3.2.3. cost for repairs as further described in Section 6.2.7.

4.3.2.4. cost of Rent as that term is defined in the lease agreement referenced in Section 8.1; provided, however, Rent incurred prior to the Commercial Operations Date shall not be considered a Reimbursable Cost.

4.3.2.5. interest applied to any outstanding Reimbursable Cost balance, shall conform with Section 2251.025 of the Texas Government Code. Interest will accrue starting on the date a Reimbursable Cost is paid by MHR.

4.3.3. MHR shall promptly deliver to COD an itemized statement detailing all Reimbursable Costs. MHR shall certify in writing that the itemized statement is a true and correct representation of the actual expenditures by MHR. MHR shall not reduce COD's royalty until the itemized statement is delivered to COD.

4.4. Billing and Payments.

4.4.1. Within seventy-five (75) days after the end of each month, MHR shall provide

COD with a statement detailing amounts owed by MHR since the most recently invoiced period. The statement shall include (i) records of readings from the Meters and revenue statements from High-BTU Gas sales, and showing Gross Revenues; (ii) the amount of Facility Downtime (in minutes) of MHR's Facilities during the invoiced period and the cumulative amount of Facility Downtime for the year; (iii) any royalty reduction being applied, including the basis for the royalty reduction; and (iv) such additional information as COD may reasonably require confirming the amounts payable by MHR. The statement will include backup for any further reimbursements or payments owed by MHR or COD.

4.4.2. The first partial month following the Commercial Operations Date shall be combined with the first full month following the Commercial Operations Date, such that all statements subsequent to the first statement will cover a period beginning on the first day of each month and ending on the last day of each month.

4.4.3. MHR shall pay to COD, all amounts owed to COD within thirty (30) days after COD's receipt of the billing statement, subject to Section 4.6 (Disputed Amounts).

4.5. Audit Rights.

MHR shall keep such records and books of account in accordance with generally accepted accounting principles and practices in the natural gas industry, with such variations as may be reasonably required to enable COD to readily determine the amounts it is owed. COD shall keep such records and books of account in accordance with generally accepted accounting principles and practices in the landfill industry as may be reasonably required to enable MHR to determine that COD is in compliance with its duties and obligations under and pursuant to this Agreement. MHR and COD and their respective representatives shall have the right to audit, to examine, and to make copies of all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Agreement. MHR and COD shall, at all times during the Term, and for a period of five (5) years after termination of this Agreement for any reason, maintain such records, together with supporting or underlying documents and materials. Upon either Party's request, the other Party, whether during or after termination of this Agreement, will make such records available for inspection and audit during normal business hours. If an audit reveals an underpayment by MHR greater than \$10,000, the cost of such audit shall be borne by MHR. If an audit reveals an underpayment of less than \$10,000, the cost of the audit shall be borne by COD.

4.6. Disputed Amounts.

MHR and COD shall use diligent, good-faith efforts to resolve any dispute regarding the amounts due to either Party. If any portion of any disputed amount is determined to be due and owing to COD, MHR shall pay COD. If it is determined that MHR overpaid COD, such overpayment may only be offset against future payments due to COD from MHR at the time such payments are due; provided, however, overpayments occurring in the last twenty-four (24) months of this Agreement will be invoiced to COD and paid within thirty (30) days of receipt of such invoice if future payments are reasonably expected to be insufficient to provide for reimbursement by offset.

ARTICLE V. DESIGN AND CONSTRUCTION

5.1. Design.

5.1.1. MHR shall be solely responsible for the adequacy of the design of (i) MHR's Facility; (ii) modifications, expansions, and improvements made by MHR to the GCCS; and (iv) the

interconnection between MHR's Facilities and the GCCS and WWTP, regardless of whether designed by MHR, any subcontractor, or by anyone directly or indirectly employed by any of them to perform any of the design. MHR shall ensure no asbestos-containing materials are used in the construction unless MHR can demonstrate there is no alternative material or part.

5.1.2. Prior to beginning any construction within the Landfill boundary, MHR, at MHR's sole expense, shall prepare Final Engineering and Design Plans and Specifications of (i) the Landfill Connection Point, (ii) the WWTP Connection Point, and (iii) any modifications or improvements to the GCCS (the "Final Engineering and Design Plans and Specifications"), sealed by a professional engineer licensed in the State of Texas, for COD's review. The Final Engineering and Design Plans and Specifications shall conform to all COD's Permits, to all Environmental Laws, the Engineering Practices Act, and with Engineer Standards of Performance.

5.1.3. MHR shall provide the Final Engineering and Design Plans and Specifications to COD promptly following the completion of such plans and specifications. COD shall have the right but not the obligation to review the Final Engineering and Design Plans and Specifications. COD shall have ten (10) business days to complete its review of the Final Engineering and Design Plans and Specifications and to provide written comments. MHR shall either address COD's comments or explain in writing why it did not address COD's comments. Revisions to the Final Engineering and Design Plans and Specifications shall conform to all Environmental Laws, the Engineering Practices Act, and with Engineer Standards of Performance. The Parties shall negotiate in good faith to resolve any of COD's comments that, in COD's judgment, were not adequately addressed. With respect to Final Engineering and Design Plans and Specifications submitted before the Gathering System Operations Date, in the event that COD's comments are not addressed to COD's satisfaction, either Party may terminate this Agreement, provided that notice of the terminating Party's intent to do so is provided to the other Party prior to the later of (i) MHR beginning construction or (2) within thirty (30) days of MHR receiving COD's written explanation of why it did not address COD's Comments, and neither Party shall have any further duties or obligations hereunder. MHR acknowledges that the adequacy of the Final Engineering and Design Plans and Specifications is entirely MHR's responsibility; neither COD's review nor failure to review the Final Engineering and Design Plans and Specifications shall be construed as an endorsement by COD of the adequacy of the Final Engineering and Design Plans and Specifications, and shall not impose any liability or responsibility on COD.

5.1.4. MHR shall provide to COD revised engineering and design plans and specifications for any modifications or expansions to the GCCS proposed or made after MHR begins construction. All revised Final Engineering and Design Plans and Specifications shall conform to all COD's Permits, Environmental Laws, and with Engineer Standards of Performance. COD shall have the same opportunity to review and comment on the revised engineering and design plans and specifications as the Final Engineering and Design Plans and Specifications. All revised Final Engineering and Design Plans and Specifications shall conform to all Environmental Laws, the Engineering Practices Act, and with Engineer Standards of Performance.

5.1.5. MHR's design shall include a manually operated isolation valve as shown on Exhibit 1, which, if closed, will shut off all LFG and Digester Gas to MHR's Facilities, and will direct all LFG and Digester Gas to the Blower-Flare Facility. If MHR's design includes any storage facilities for storing either LFG, Digester Gas, or processed fuel, MHR shall submit drawings of such storage facilities for approval by COD, and MHR shall not install such storage facilities without the approval of COD.

5.2. Permits.

5.2.1. Within thirty (30) days prior to MHR beginning construction, MHR shall prepare and submit, at MHR's sole expense, an application to the TCEQ for their facility (the "MHR Permit"). Any modifications required to COD's Permits to include MHR's Facility shall be prepared by COD's engineer at MHR's expense (the "Mod Application"), and MHR will diligently prosecute the approval of the Mod Application. MHR shall submit a draft of the Mod Application to COD to review and approve prior to submitting the Mod Application to TCEQ and shall address all of COD's comments prior to submittal. MHR shall not submit the Mod Application to TCEQ until such application has been approved by COD, and shall provide a copy of the final Mod Application to COD concurrently with its submittal to TCEQ, COD's approval not to be unreasonably delayed. COD shall provide reasonable assistance to MHR in preparing and prosecuting the Mod Application, but shall not be required to expend funds in so doing.

5.2.2. Prior to MHR beginning construction, MHR shall prepare and submit, at MHR's sole expense, all applications to any appropriate agencies for any authorizations necessary to construct and/or operate MHR's Facility and will diligently prosecute the approval of its application(s). MHR shall provide a copy of its application(s) to COD concurrently with its submittal to such agency. COD shall provide reasonable assistance to MHR in preparing and prosecuting MHR's applications, but shall not be required to expend funds in so doing. Notwithstanding anything to the contrary contained in this Agreement, in the event MHR is unable to obtain a separate air permit from TCEQ for MHR's Facility and is required instead to operate MHR's Facility under the Air Permit, MHR shall, at its sole cost, prepare the application to TCEQ to amend COD's Air Permit to include MHR's Facility, and MHR shall not submit such application to TCEQ until such application has been approved by COD.

5.2.3. Prior to or concurrently with MHR beginning construction, MHR shall prepare and submit, at MHR's sole expense, any additional applications to any other governmental entities (whether local, state or federal) for any authorizations necessary to construct and/or operate MHR's Facility, and will diligently prosecute the approval of its application(s). MHR shall provide a copy of its application(s) to COD concurrently with its submittal(s). COD shall provide reasonable assistance to MHR in preparing and prosecuting MHR's application, but shall not be required to expend funds in so doing.

5.2.4. MHR acknowledges that it is responsible for its compliance with Environmental Laws with respect to pre-permit construction, and that any work performed before the MHR Permit and any modifications of COD's Permits as provided in this Section are in place is done at MHR's sole risk.

5.2.5. Permitting for expansions and modifications to the GCCS shall be subject to Section 6.2.3.

5.3. Construction.

5.3.1. Subject to the requirements in Section 5.2, MHR may begin construction of improvements to the GCCS and MHR's Facility as of the Effective Date provided any applicable building or construction permits or development services requirements are met. MHR shall ensure that all construction is carried out in a good and workmanlike manner, and all construction, including improvements and expansions to the GCCS, are in accordance with the Final Engineering and Design Plans and Specifications and COD's Permits. If MHR plans to materially deviate from the Final Engineering and Design Plans and Specifications, MHR shall provide revised engineering and design plans and specifications to COD for COD's approval, such approval to not be unreasonably denied or delayed, in advance.

5.3.2. MHR shall provide COD with (i) a minimum of forty-eight (48) hours' notice of planned construction activities and (ii) notice as soon as practical for emergency repairs that affect the operation of the GCCS. COD shall have the right, but not the obligation, to have a representative on site to observe construction activities. Observation by COD shall not relieve MHR of any of its obligations regarding the quality of its construction.

5.3.3. Unless otherwise approved by COD in writing, in COD's sole discretion, all construction shall be performed between 7:00 AM and sunset, Monday through Saturday. MHR shall not perform construction on Sundays or the following holidays:

- January 1 (New Year's Day)
- Thanksgiving Day
- Christmas Day

ARTICLE VI. OPERATION AND MAINTENANCE

6.1. General Operation, Maintenance, and Reporting Requirements.

6.1.1. Beginning on the earlier of (i) the date that MHR initiates drilling of a well or other improvements to the GCCS, or (ii) the first (1st) day of the calendar month following sixty (60) days after the Effective Date, MHR will assume all responsibilities to:

6.1.1.1. operate, maintain, repair, and expand the GCCS, including assuming sole responsibility for the costs to operate, maintain, repair, and expand the GCCS;

6.1.1.2. operate, maintain, and repair the Blower-Flare Facility, including assuming sole responsibility to operate, maintain, and repair the Blower-Flare Facility; however, COD will be solely responsible for all costs to expand the Blower-Flare Facility as set forth in Section 6.2.2; and

6.1.1.3. operate, maintain, repair, and expand MHR's Facilities and the Landfill and WWTP Connection Points, including all costs to operate, maintain, repair, and expand MHR's Facilities and the Landfill and WWTP Connection Points.

6.1.2. In the event that the reasonable cost to repair one or more of the pieces of equipment listed in this Section 6.1.2, exceeds fifty percent (50%) of the reasonable cost to replace the equipment with an equivalent or better piece of equipment, MHR may request in writing that COD purchase the equivalent or better piece of equipment. If COD approves the request, such approval will not be unreasonably withheld or delayed, COD shall, at COD's discretion, either (i) provide the replacement equipment to MHR, (ii) direct MHR to purchase the equipment and reimburse MHR for such equipment within six (6) months of the purchase date, or (iii) credit MHR the cost of the replacement equipment against future royalties. MHR shall be responsible for the labor and any additional materials needed to replace the part. This Section 6.1.2 shall apply to the following equipment located within the Blower-Flare Facility:

- flares
- flame arresters
- blowers
- air compressor(s)
- flare controls
- knock-out pot(s)

6.1.3. Except as provided in Section 6.1.3.1, MHR shall perform all operating, maintenance, and reporting duties related to the MHR Facilities and the GCCS, and all piping (Biogas and natural gas) between the WWTP and the MHR Facility, such that all facilities for which MHR is responsible are kept in good working order and condition; operated in a safe, secure, effective, and efficient matter, secure from hazards such as explosions, leaks and other dangers to human health and the environment; are operated (including testing and reporting requirements) in strict compliance with COD's Permits, and in compliance with all applicable laws, including without limitation, NSPS requirements, all governmental approvals, any required permits, Environmental Laws, local ordinances and/or regulations, and Occupational Health and Safety Administration ("OSHA") laws and regulations.

6.1.3.1. COD shall be responsible for performing all NSPS surface emission monitoring and reporting.

6.1.3.2. To the extent MHR gathers any information relating to the GCCS that COD is required to report to a governmental authority, MHR will provide such information to COD in within five (5) business days of receipt of the information and will certify in writing to COD as to the accuracy and completeness of such information.

6.1.4 MHR shall have access to MHR's Facilities and the GCCS at all times, except (i) during or to prevent an emergency, (ii) during or to prevent an unexpected shutdown of MHR's Facilities, or (iii) when approved in advance by COD, MHR shall not conduct repairs or maintenance activities except during the hours between 6:00 AM and sunset, Monday through Saturday. Except during or to prevent an emergency, MHR shall not conduct repairs or maintenance activities on Sundays or the following holidays:

- January 1 (New Year's Day)
- Thanksgiving Day
- Christmas Day

6.1.5. Condensate.

6.1.5.1. Subject to COD's Permits and Environmental Laws, COD agrees to accept condensate collected from the GCCS, WWTP, and MHR's Facilities into its leachate collection system at a location(s) acceptable to COD, at no charge to MHR, and only to the extent that COD has capacity available in the WWTP. If the WWTP does not have sufficient capacity to accept the condensate, COD shall provide MHR a minimum of three (3) day's advance notice, or as soon as reasonably practicable after an emergency, and thereafter MHR shall be solely responsible for disposal of all condensate collected from MHR's Facilities, until such time that COD notifies MHR that there is again sufficient capacity. Nothing in this provision shall require COD to accept condensate if it does not have the capacity to do so in the event of an emergency, or as COD deems necessary in its sole discretion to protect health and safety.

6.1.5.2. MHR shall use reasonable efforts to ensure there is no spillage or discharge of condensate into the environment and that all tanks, pipelines and other equipment used by MHR for the handling of condensate are operated and maintained in compliance with COD's Permits, MHR's Permit, and Environmental Laws.

6.1.5.3. MHR shall provide a sampling port for its condensate upstream of the contaminated water storage pond. COD shall have the right to sample the condensate at any time.

6.1.6. Unauthorized Emissions and Odors.

6.1.6.1. Except as provided in Section 6.1.6.2, MHR shall be solely liable for any damages or claims caused by the release of Landfill Gas from (i) areas that are required by Environmental Laws to have a GCCS, (ii) the GCCS, and (iii) MHR's Facilities. In the event that any governmental agency brings an enforcement action against COD based on failure of the Landfill to comply with Environmental Laws related to Landfill Gas or odors, MHR shall reimburse COD for all reasonable costs incurred in connection with such enforcement action, including fines and attorneys' fees.

6.1.6.2. COD shall be solely liable for any damages or claims caused by odors or the release of Landfill Gas that can be demonstrated as (i) having escaped from the working face of the Landfill or (ii) being due to the failure by COD to place adequate soil cover or alternate daily cover on the Landfill in accordance with COD's Permit. In the event that any governmental agency brings any enforcement action against COD based on failure of the Landfill to comply with Environmental Laws related to operations at the working face of the Landfill, or for inadequate cover of the Landfill, MHR shall not be responsible for fines and/or costs incurred responding to such enforcement action. COD shall also be solely responsible for any damages or claims caused by odors or the release of Landfill Gas from any area of the Landfill that (i) does not have a GCCS system installed and being operated by MHR, and (ii) is not legally required to have a GCCS, unless COD requests MHR in writing, for the purpose of ensuring the Landfill's continuous compliance with Environmental Laws, more than one hundred eighty (180) days prior to the damage or claim, to expand the GCCS to the area of the Landfill where the odors or Landfill Gas were released.

6.1.6.3. In the event MHR expands the GCCS into an area that is not legally required to have a gas collection and control system, MHR may request that COD place additional soil cover to help control gas migration. COD shall not unreasonably deny such request.

6.1.7. Emergency Conditions. Notwithstanding anything herein to the contrary, if COD, in good faith, determines that it must access the GCCS to make modifications to comply with COD's Permits or Environmental Laws, or to prevent threatened or actual harm to human health or the environment or respond to odor complaints resulting from Landfill Gas emissions, then, after COD provides notice to MHR to the extent practicable under the circumstances at the time, qualified technical representatives of COD and MHR shall meet within seven (7) days to discuss possible remedies; however, COD will take immediate action to resolve any emergency situations. If the Parties cannot reach an agreement, then COD may access the GCCS to make any necessary modifications to comply with COD's Permits or Environmental Laws, or to prevent threatened or actual harm to human health or the environment or respond to odor complaints resulting from Landfill Gas emissions.

6.1.8. Coordination of Facilities. MHR shall install valves and controls in the Blower-Flare Facility to allow startup of the Blower-Flare Facility's flare in the event MHR's Facility goes off-line, and shall also install piping and fixtures (if needed) to allow MHR to flare LFG, other than Waste Gas through the Blower-Flare Facility.

6.1.9. MHR shall copy COD on all written communications with any regulatory agency.

6.2. GCCS Operations, Expansion, Repair, Maintenance, and Management.

6.2.1. Except as discussed in Section 6.2.2, MHR, at MHR's sole expense, shall be solely responsible for all aspects of the expansion, operation, repair, replacement, modification, maintenance, and capital expenditures of the GCCS and piping to the WWTP and for the collection and management of Biogas, whether (i) necessary to comply with COD's Permit or Environmental Laws, or

(ii) that MHR desires to make.

6.2.2. MHR shall be responsible for the operation, maintenance and repair of the Blower-Flare Facility, but shall not be responsible for the cost of expansions to the Blower-Flare Facility as described in Sections 6.1.1.2 and 6.2.2.1.

6.2.2.1. COD shall have the right, but not the obligation, in its sole discretion, to expand the Blower-Flare Facility at any time, at COD's sole expense. If COD desires to expand the Blower-Flare Facility, the Parties will work cooperatively to determine the scope and reasonable costs for the expansion. COD may then elect to either (i) have MHR perform the expansion, in which case MHR shall be responsible for performing the expansion in accordance with the scope and costs agreed to by COD, and COD shall reimburse MHR, either through a direct payment or through a reduction in royalty payments (the method of reimbursement being at COD's option), the cost agreed to between COD and MHR, with MHR bearing the risk of cost overruns, unless a change order detailing the cost increase is approved in writing by both MHR and COD in advance; or (ii) perform the expansion, itself or through a third party, at COD's sole expense.

6.2.2.2. If capacity utilization of the Blower-Flare facility exceeds 85% (the "Utilization Trigger"), COD shall inform MHR. The Parties shall then work cooperatively to determine if an expansion of the Blower-Flare Facility is needed, and to plan for such expansion if such expansion is needed. Any expansion (whether before or after the Utilization Trigger) shall ultimately be at COD's sole discretion, and subject to Section 6.2.2.1.

6.2.2.3. While the Blower-Flare Facility is being expanded (whether by MHR, COD, or a third party), the Parties shall coordinate with each other to minimize the disruption to the other's operations to the extent reasonably practicable.

6.2.3. MHR, at MHR's sole expense, may make modifications and improvements to the GCCS, including, but not limited to, any repair, retrofit, modification, expansion, or replacement of the GCCS or any component or part thereof. MHR shall be responsible for all such modifications and improvements, including obtaining all required permits. All modifications shall be consistent with the final engineering plans, design plans, and specifications and with COD's comments addressed. In making any modifications to the GCCS, MHR shall use reasonable care and diligence and shall perform all work in a proper and workmanlike manner and in accordance with applicable laws, including all governmental approvals, any required permits, and, without limitation, Environmental Laws. Title to all modifications made by or on behalf of MHR shall pass to COD free and clear of all liens, claims, encumbrances and security interests as of the date of the incorporation of such modifications into the GCCS.

6.2.4. MHR, at MHR's sole expense, may expand the GCCS at any time, with the consent of COD, which consent shall not be unreasonably withheld or delayed. MHR, at MHR's sole expense, shall have the obligation to expand the GCCS within one hundred-eighty (180) days following its receipt of written notice from COD that an expansion is necessary for the Landfill's compliance with Environmental Laws. At MHR's sole expense, MHR shall (i) prepare an application, if one is required by Environmental Laws, to be submitted by COD, for approval of any expansions by the appropriate regulatory authority; (ii) obtain from the appropriate regulatory authority all required approvals prior to expanding the GCCS; (iii) expand the GCCS in accordance with Engineer Standards of Performance and in compliance with applicable laws, including all governmental approvals, any permits required for construction or operation, and, without limitation, Environmental Laws; and (iv) if required, submit an as-built permit drawing to the regulatory authority following expansion of the GCCS. Title to all expansions made by or on behalf of MHR shall pass to COD free and clear of all liens, claims, encumbrances, and security interests as of the date of the incorporation of such expansion into the GCCS.

6.2.5. MHR shall provide COD with reasonable notice of any planned repair, maintenance, or replacement activities to the GCCS that would reasonably and foreseeably impact Landfill operations.

6.2.6. COD and MHR shall determine the maximum and minimum level of vacuum needed to operate the GCCS safely and in accordance with COD's Permits and Environmental Laws. Initially, this range shall be set at -30 to -80 inches of water column. If either Party determines that the range needs to be revised, the Parties will work together to resolve the revisions to the range. COD shall have the right to revise the range upon three (3) day's written notice to MHR, if the change is required to be in compliance with applicable Environmental Laws. MHR shall not deviate from the range in effect at the time without prior written approval from COD. In the event that MHR deviates from the range, MHR shall notify COD within twelve (12) hours. If the GCCS is operated outside the acceptable range, COD shall have the right, but not the obligation, to install additional equipment, and/or operate the GCCS such that the GCCS is operated within the specified range.

6.2.7. COD shall not have any obligation to undertake any repair, retrofit, modification, replacement, or expansion of the GCCS or any component or part thereof unless such repair, retrofit, modification, replacement, or expansion is required as a direct result of damage to the GCCS caused by COD's or any of COD's invitees' negligence. If any repair, retrofit, modification, or replacement is required as a result of damage caused by COD's or any of COD's invitees' negligence, COD shall complete such repair, retrofit, modification, or replacement as soon as practicable, or reimburse MHR for the cost of such repair, retrofit, modification, or replacement, at COD's sole discretion.

6.3. Operation of MHR's Facilities.

6.3.1. COD shall not be responsible for the repair or replacement of MHR's Facilities unless the repair or replacement is required as a direct result of damage caused by COD's, or COD's invitees', negligence.

6.3.2. Except as described in Section 6.1.5 (regarding condensate), MHR shall be solely responsible, at MHR's sole cost and in accordance with all applicable Environmental Laws, for disposal of all MHR's waste, including but not limited to (i) Hazardous Wastes, (ii) Hazardous Substances that are no longer intended to be used, (iii) Unused Biogas, and (iv) Waste Gas.

6.3.2.1. If requested by MHR, COD shall accept at the Landfill, MHR's waste, provided that the waste is non-hazardous, generated on the Site, and that the Landfill is authorized to accept in accordance with COD's Permits. All waste must be collected and hauled by COD personnel pursuant to Chapter 24 of the City of Denton Code of Ordinances.

6.3.2.2. MHR is responsible for flaring all Waste Gas in accordance with regulatory requirements. The Blower- Flare Facility shall not be used to combust any Waste Gas.

6.3.2.3. MHR is responsible for flaring all Unused Biogas in accordance with regulatory requirements. The Blower- Flare Facility may be used to combust Unused Biogas.

ARTICLE VII. TERM AND TERMINATION

7.1. Initial Term.

The initial term of this Agreement shall begin on the Effective Date and continue for twenty (20) years following the Effective Date (the “Initial Term”), unless terminated earlier as provided in this Agreement.

7.2 Extensions.

7.2.1. Following the Initial Term and subject to COD approval, if MHR has (i) operated MHR’s Facilities in accordance with the terms and provisions of this Agreement, (ii) received no notices of default from COD or resolved all notices of default from COD within the Cure Period, (iii) neither MHR, nor COD, has received any notices of violation from the TCEQ or other governmental authority related to landfill gas (including but not limited to odors and landfill gas migration), or has resolved any such notice of violation without the matter escalating beyond a notice of violation, and (iv) discusses the current technology of MHR Facilities with COD and addresses any technological advances to COD’s satisfaction, the Term of this Agreement shall be extended for one (1), five (5) year period (the “First Extension”).

7.2.2. Following the First Extension or any Subsequent Extension, subject to COD approval, if MHR has (i) operated MHR’s Facilities in accordance with the terms and provisions of this Agreement, (ii) received no notices of default from COD or resolved all notices of default from COD within the Cure Period, (iii) neither MHR, nor COD, has received any notices of violation from the TCEQ or other governmental authority related to landfill gas (including but not limited to odors and landfill gas migration), or has resolved any such notice of violation without the matter escalating beyond a notice of violation, and (iv) discusses the current technology of MHR Facilities with COD and addresses any technological advances to COD’s satisfaction, this Agreement shall be extended for additional consecutive five (5) year periods (“Subsequent Extensions”). The term of this Agreement will be limited by any current or future statutory limitations COD is subject to regarding the term of leases for municipalities.

7.2.3. Following the Initial Term, First Extension, or any Subsequent Extension, if MHR does not qualify for an automatic extension pursuant to Sections 7.2.1 or 7.2.2, this Agreement may only be extended in writing signed by both Parties.

7.2.4. Notwithstanding the forgoing, if either Party elects, in its sole discretion, to not extend this Agreement beyond the Initial Term, First Extension, or any Subsequent Extension, either Party may notify the other in writing no less than one-hundred eighty (180) days prior to the expiration of the Initial Term, First Extension or Subsequent Extension, of its intention to not extend the Term of this Agreement beyond the then-current Term, and this Agreement shall terminate at the end of the then-current Term.

7.2.5. The Initial Term, First Extension (if any) and all Subsequent Extensions (if any), are collectively referred to as the “Term.”

7.3. Termination. This Agreement shall continue for the Term unless terminated early in accordance with one of the following:

7.3.1. This Agreement may be terminated by written agreement signed by both Parties.

7.3.2. COD shall have the right to terminate the Agreement under the following circumstances. COD’s right to terminate shall not be exclusive and shall not prevent COD from pursuing any other remedies to which it may be entitled at law or in equity. Failure of COD to exercise its right to terminate shall not constitute a waiver of its right to terminate, or of any other remedy available to COD, at law or in equity.

7.3.2.1. Failure of MHR to operate or maintain MHR's Facilities in a manner that complies with COD's Permits, applicable Environmental Laws, and, in all material respects, with this Agreement. In the event COD seeks to terminate this Agreement pursuant to this Section 7.3.2.1, COD shall notify MHR in writing of the basis, and of COD's intent to terminate this Agreement (a "Default Notice"). If MHR cures the failure within thirty (30) days following receipt of the Default Notice (the "Cure Period"), the failure shall not constitute grounds for termination. If MHR is unable to cure the failure within thirty (30) days following receipt of the Default Notice, but initiates steps to cure the failure within thirty (30) days following receipt of the Default Notice, diligently pursues the cure, and cures the failure within one hundred (100) days following receipt of the Default Notice, the failure shall not constitute grounds for termination. All cure notice periods under this Agreement are subject to any compliance demands from any applicable regulatory agency under Environmental Laws and will be amended to reflect such demands.

7.3.2.2. The institution by MHR of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of a receiver, liquidator, assignee, trustee, or similar official or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of action by any of them in furtherance of any such action. The foregoing notwithstanding, if any such proceeding is dismissed within sixty (60) days, such proceedings shall not create a default under this Agreement.

7.3.2.3. Following the Commercial Operations Date, failure of MHR's Facilities to accept Biogas for seventy (70) consecutive, calendar days or one hundred (100) total days in any three-hundred and sixty-five (365) day period, unless due to Force Majeure.

7.3.2.4. A GCCS Vacuum Failure Event, as hereinafter defined, occurs for a period of five (5) consecutive days or for more than ten (10) days in any month. A "GCCS Vacuum Failure Event" shall be deemed to have occurred on any day during which the level of vacuum on the GCCS is greater than or less than the range set forth in Section 6.2.6 (as may be subsequently amended), unless due to Force Majeure.

7.3.2.5. In accordance with Section 5.1.3.

7.3.2.6. The failure of MHR to make any payment due under this Agreement within thirty (30) days of receiving written notice from COD that such payment is at least thirty (30) days overdue, the basis for the amount due, and COD's intent to terminate this Agreement. Failure to pay a disputed amount subject to Section 4.6 shall not be considered a failure to make a payment due under this Agreement until thirty (30) days following COD's receipt of written notice from MHR that an amount is in dispute, the amount in dispute, and the basis for the dispute. In the event that a court of competent jurisdiction finds that a claim by MHR of an amount in dispute was not made in good faith, COD may terminate this Agreement upon written notice to MHR, and MHR shall pay COD all amounts due and owing within thirty (30) days following termination.

7.3.2.7. Failure of MHR to meet the following milestones, unless due to Force Majeure. In the event that COD seeks to terminate this Agreement because MHR fails to meet a milestone, COD shall notify MHR in writing of the failure, and of COD's intent to terminate this Agreement. If MHR meets the milestone within thirty (30) days following receipt of COD's notice, the milestone shall be considered met.

7.3.2.7.1. By the first (1st) day of the calendar month following sixty (60) days after the Effective Date, the failure to assume all responsibilities under Section 6.1.1.

7.3.2.7.2. Within two hundred seventy (270) days following the Effective Date, begin making payments in accordance with Section 4.4, subject to MHR successfully obtaining (i) a Sales Interconnection Point, (ii) EPA pathway approval designating the Biogas eligible for RINs, (iii) all necessary utility services, and (iv) all necessary permits.

7.3.3. MHR shall have the right to terminate the Agreement under the following circumstances. MHR's right to terminate shall not be exclusive and shall not prevent MHR from pursuing any other remedies to which it may be entitled at law or in equity. Failure of MHR to exercise its right to terminate shall not constitute a waiver of its right to terminate, or of any other remedy available to MHR, at law or in equity.

7.3.3.1. Any breach by COD of a material term of this Agreement that has a material adverse effect on MHR. In the event that MHR seeks to terminate this Agreement because COD breaches a material term of this Agreement that has a material adverse effect on MHR, MHR shall notify COD in writing of the breach, and of MHR's intent to terminate this Agreement. If COD cures the failure within thirty (30) days following receipt of MHR's notice, the breach shall not constitute grounds for termination. If COD is unable to cure the failure within thirty (30) days following receipt of MHR's notice, but initiates steps to cure the failure within thirty (30) days following receipt of MHR's notice, diligently pursues the cure, and cures the failure within one hundred (100) days following receipt of MHR's notice, the failure shall not constitute grounds for termination.

7.3.3.2. If, after the Commercial Operations Date, MHR deems, in MHR's reasonable judgment, subject to confirmation by COD and any third party consultant COD might engage, that it is not commercially feasible to continue to operate MHR's Facilities, MHR may terminate this Agreement by providing written notice to COD of its determination that it is not commercially reasonable to continue to operate MHR's Facilities, and of its intent to terminate this Agreement (the "Termination Notice"). If MHR submits a Termination Notice:

7.3.3.2.1. This Agreement shall continue in full force and effect, except as otherwise provided in this Section 7.3.3.2, for three hundred, sixty-five (365) days following COD's receipt of the Termination Notice (the three hundred, sixty-fifth (365th) day following COD's receipt of the Termination Notice being the "Requested Termination Date");

7.3.3.2.2. MHR's obligation to operate MHR's Facilities shall end one hundred eighty (180) days following COD's receipt of the Termination Notice;

7.3.3.2.3. MHR's obligation to make payments under Section 4.4 shall continue until the later of (i) the date that MHR actually ceases operating MHR's Facilities, or (ii) one hundred eighty (180) days following COD's receipt of the Termination Notice;

7.3.3.2.4. MHR may revoke the Termination Notice at any time prior to the Requested Termination Date, by providing written notice to COD of its request to revoke the Termination Notice, provided that (i) MHR tenders payment of all amounts that would have been due to COD pursuant to Section 4.2.1 if MHR had not provided the Termination Notice, plus a penalty set by COD at COD's sole discretion, and (ii) COD accepts MHR's request to revoke the Termination Notice in writing

signed by COD.

7.3.3.3. Condemnation by eminent domain of the Site or a part thereof sufficient to substantially interfere with the purposes of this Agreement. MHR shall provide notice to COD of its intent to terminate this Agreement as soon as practicable after being notified of an impending condemnation, and in no case less than ninety (90) days in advance of terminating this Agreement. MHR shall continue to operate for as long as practicable.

7.3.3.4. The institution by COD of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of a receiver, liquidator, assignee, trustee, or similar official or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of action by any of them in furtherance of any such action. The foregoing notwithstanding, if any such proceeding is dismissed within sixty (60) days, such proceedings shall not create a default under this Agreement.

7.3.3.5. Notwithstanding any other provision to the contrary contained herein, if, during the one-hundred and eighty (180) days following the Effective Date (“Test Period”), MHR determines that the project contemplated by this Agreement is not commercially feasible, or that it is not able, notwithstanding its reasonable efforts, to obtain the necessary rights-of-way from MHR’s Facility to the point of interconnect with the pipeline transporting Biogas, MHR may, in its sole discretion, and upon written notice to COD, terminate this Agreement, with such termination to be effective thirty (30) days after notice of termination has been given to COD. If after one-hundred and eighty (180) days, MHR has been unable to obtain the necessary rights-of-way, but has diligently and continuously exercised its reasonable efforts to obtain the necessary rights-of-way, MHR and COD may by written agreement, extend the Test Period up to an additional five-hundred and forty (540) days, provided that such extension shall only continue as long as MHR diligently and continuously exercises its reasonable efforts to obtain the necessary rights-of-way.

7.4. Force Majeure. If by reason of Force Majeure either Party is unable in whole or in part to carry out the obligations on its part contained in this Agreement (other than COD’s or MHR’s obligations to pay amounts due and owing), such Party shall not be deemed in default during the first one hundred eighty (180) days of the continuance of such inability, provided that (i) the Party unable to carry out its obligations, within three (3) business days after the occurrence of the event of Force Majeure, gives the other Party written notice describing the event of Force Majeure; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure, and shall not in any event be longer than one hundred eighty (180) days; (iii) no obligations of the Party unable to carry out its obligations which arose prior to the occurrence causing the suspension of performance shall be excused as a result of such occurrence; and (iv) the non-performing Party shall use its reasonable good faith efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations; except that the requirement that a Party use reasonable good faith efforts to remedy any event of Force Majeure shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

7.5. Restoration.

Subject to the lease agreement referenced in Section 8.1, upon the expiration of the Term, or earlier termination of this Agreement, MHR shall have a period of one hundred and eighty (180) days, commencing

on the date of expiration or termination (the “Removal Period”), to remove MHR’s Facilities from the Site. MHR will be responsible for any necessary asbestos inspection necessary to allow removal/demolition in accordance with Environmental Laws. MHR, at its sole cost and expense, shall repair any damage caused by such removal, and restore the Site to substantially its condition as of the Effective Date. Any part of MHR’s Facilities or any MHR waste (not covered under Section 6.3.2.1 or 6.1.1) that has not been removed prior to the expiration of the Removal Period shall, at COD’s option, be deemed to have been abandoned, and title to such items shall, at COD’s option, vest in COD at the end of the Removal Period, without any payment or other consideration given by COD. Alternatively, COD may require MHR to remove all or any part of the remaining portion of MHR’s Facilities at MHR’s expense and, if MHR fails to remove such items, COD may remove them at MHR’s expense. All investments by MHR, other than (i) MHR’s Facilities, and (ii) those portions of the GCCS that are proprietary to MHR, and are not necessary for the GCCS to continue to function in compliance with Environmental Laws, shall become the property of COD without any further payment or other consideration given by COD.

7.6. Survivability of Terms. The following terms shall survive the end of the Term, or earlier termination of this Agreement.

- 7.6.1. Indemnity provisions;
- 7.6.2. Restoration requirements;
- 7.6.3. Representations and Warranties;
- 7.6.4. Provisions that are not intended to be performed before the end of the Term;
- 7.6.5. Payment obligations.

ARTICLE VIII. GROUND LEASE

8.1. COD and MHR will enter into a ground lease at the Landfill on mutually agreeable terms.

ARTICLE IX. REPRESENTATIONS AND WARRANTIES

9.1. COD Representations and Warranties. COD warrants and represents to MHR that, to the best of COD’s knowledge and belief:

9.1.1. COD has all requisite power and authority to own its property and assets and execute and deliver this Agreement and perform its obligations hereunder.

9.1.2. The execution, delivery, and performance of this Agreement have been duly authorized by, or are in accordance with, its organizational instruments; this Agreement has been duly executed and delivered for COD by the signatories so authorized; and this Agreement constitutes its legal, valid and binding obligation, enforceable against COD in accordance with the terms hereof subject to the bankruptcy, insolvency, fraudulent conveyance, transfer, reorganization, governmental immunity, and similar laws relating to or affecting COD’s rights generally, and general principles of equity.

9.1.3. The execution, delivery, and performance of this Agreement will not conflict with, violate or result in a breach of or constitute a default under, any agreement, lease, or instrument to which COD or by which COD or COD’s properties may be bound or affected, or create or cause the imposition of any mortgage, pledge, lien, security interest or other encumbrance under any term or condition of any mortgage, indenture or other agreement or instrument as to which COD or any of COD’s properties

are bound or affected.

9.1.4. As of the Effective Date, (a) COD has in place all necessary permits and licenses to operate and maintain the GCCS; (b) there are no liens and encumbrances against the GCCS, other than those liens in favor of its senior and mezzanine lenders and its bonding company; and (c) there are no claims existing, or potential claims existing or threatened against COD as a result of the ownership or operation of the GCCS.

9.1.5. As of the Effective Date, there is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or governmental authority, pending or threatened, against it, wherein an anticipated decision, ruling or finding would likely materially adversely affect the performance of COD's obligations hereunder or the performance of COD's obligations under the transactions contemplated hereby or likely adversely materially affect the validity or enforceability of this Agreement. There is no outstanding order, writ, injunction, decree, judgment or award by any court, arbitration panel or other government entity against or affecting it, its business, operations, or properties, or that would likely adversely materially affect the performance of COD's obligations hereunder.

9.2. MHR Representations and Warranties.

MHR warrants and represents to COD that, to the best of MHR's knowledge and belief:

9.2.1. MHR is duly organized, validly existing, and in good standing under the laws of Texas, is duly authorized to conduct business in the State of Texas, and has all requisite power and authority to own its property and assets and execute and deliver this Agreement and perform its obligations hereunder.

9.2.2. As of the Effective Date, there is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or governmental authority, pending, or threatened, against it, wherein an anticipated decision, ruling or finding would be reasonably likely to materially adversely affect the performance of MHR's obligations hereunder or the performance of MHR's obligations under the transactions contemplated hereby or be reasonably likely to adversely materially affect the validity or enforceability of this Agreement. To the best of MHR's knowledge, there is no outstanding order, writ, injunction, decree, judgment or award by any court, arbitration panel or other government entity against or affecting it, its business, operations, or properties, or that would be reasonably likely to adversely materially affect the performance of MHR's obligations hereunder.

9.2.3. MHR has the technical expertise and financial ability to perform its obligations under this Agreement.

9.2.4. The execution, delivery and performance of this Agreement have been duly authorized by, or are in accordance with, its organizational instruments; this Agreement has been duly executed and delivered for MHR by the signatories so authorized; and this Agreement constitutes its legal, valid and binding obligation, enforceable against MHR in accordance with the terms hereof subject to the bankruptcy, insolvency, fraudulent conveyance, transfer, reorganization, and similar laws, and general principles of equity.

ARTICLE X. ASSIGNMENT AND PERFORMANCE

10.1. Assignment by COD. COD may assign its rights, obligations, and interests hereunder to a third-party upon the sale of COD's entire interest in the Landfill without the consent of MHR. COD may

assign all or substantially all its interests hereunder only if the assignee assumes all of COD's obligations hereunder, confirmed in writing to MHR.

10.2. Assignment by MHR. MHR may assign or transfer all or a portion of its rights, obligations, and interests hereunder to any Affiliate of MHR without the consent of COD; provided that any such assignment shall not relieve MHR of any liabilities or obligations under this Agreement. MHR may assign all or substantially all its interests hereunder to a non-Affiliate upon the sale of MHR's entire interest in MHR's Facility at any time only with the consent of COD, which consent shall not be unreasonably withheld, conditioned, or delayed.

10.3. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon MHR and COD and their authorized successors and assigns.

ARTICLE XI. INSURANCE

11.1. Insurance Policies.

MHR shall maintain the following minimum insurance coverage, either by one or more policies, including in combination with an excess liability policy. Within ten (10) days of the Effective Date, and on each annual anniversary of the Effective Date thereafter, MHR shall provide Certificates of Insurance and Declarations pages of policies (including schedules attached to such Declarations pages) to COD evidencing the required coverage. Except for Worker's Compensation policy(ies), all insurance shall be primary and non-contributory, shall include completed operations coverage, and shall include contractual liability insurance covering MHR's indemnity obligations under Section 12.1. COD shall be named as an additional insured on all policies obtained. COD shall have the right at any time to review the coverage, form, and amount of insurance provided.

Worker's Compensation and Employer's Liability

This insurance shall protect MHR against all claims under applicable state worker's compensation laws. MHR shall also be protected against claims for injury, disease, or death of employees which, for any reason, may not fall within the provisions of a Worker's Compensation law. The liability limits shall be not less than:

Worker's Compensation: Bodily Injury by Accident: \$500,000.00 Each Accident

Bodily Injury by Disease: \$500,000.00 Each Employee

Bodily Injury by Disease: \$500,000.00 Policy Limit

Employer's Liability: \$1,000,000 each occurrence

Comprehensive Automobile Liability

This insurance shall be written in comprehensive form and shall protect MHR against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the Site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. The liability limits shall be not less than:

Bodily Injury: \$1,000,000 each occurrence; \$5,000,000 aggregate Property

Damage: \$1,000,000 each occurrence; \$5,000,000 aggregate

Comprehensive General Liability / Pollution Incident

This insurance shall be written in comprehensive form and shall protect MHR against all claims arising from injuries to persons other than MHR's employees or damage to the property of COD or others arising out of any act and/or omission of MHR or its employees, subcontractors, agents, advisors or consultants. This insurance shall include coverage for bodily injury or property damage arising out of, or resulting from, the discharge, emission, seepage, migration, dispersal, release or escape of High-BTU Gas, Biogas, or any other pollutant. This insurance shall also not contain an "insured versus insured" exclusion. The liability limits shall be not less than:

Bodily Injury: \$1,000,000 each occurrence; \$5,000,000 aggregate Property

Damage: \$1,000,000 each occurrence; \$5,000,000 aggregate

Installation and Materials Risk

This insurance shall be of the "all risks" type, shall be written in completed value form, and shall protect MHR and COD and its employees (including any of its agents, advisors or consultants) against risks of damage to buildings, structures, materials and equipment. The amount of such insurance shall be not less than MHR's total capital investment pursuant to this Agreement.

Installation and Materials risk insurance may be in the form of an installation floater, and shall provide for losses to be payable to MHR and COD and its employees (including any of its agents, advisors or consultants) as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against MHR or COD and its employees (including any of its agents, advisors or consultants).

Errors and Omissions

Errors and omissions liability insurance shall cover the liability for design or other professional services performed by the Contractor or its employees, subcontractors, agents, advisors or consultants which cause either a failure of MHR's Facilities to perform as specified or injury to persons or their property.

The limits of errors and omissions liability insurance shall not be less than: Each

occurrence: \$1,000,000; Aggregate: \$3,000,000

If errors and omissions liability coverage is written on a Claims Made form:

1. The "Retro Date" must be shown and must be on or before the date of the Service Contract.
2. Insurance must be maintained and evidence of insurance must be provided over the term of the agreed upon Service Contract, plus five years after the date of final

completion of the Service Contract.

3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a period covering the remaining term of the agreed upon Service Contract.

4. A copy of the claims reporting requirements must be submitted to COD for review.

Environmental Liability Insurance

MHR shall procure, maintain, and keep in force at all times during the Term, at MHR's sole expense, Environmental Liability Insurance which includes coverage for sudden and accidental pollution arising out of the handling of hazardous materials or hazardous wastes. The limits of Environmental Liability Insurance shall not be less than:

Each occurrence: \$1,000,000; Aggregate: \$5,000,000

11.2. Notification of Cancellation / Changes. The policies of insurance set forth in Section 11.1 shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to MHR and COD. MHR shall provide notification of cancellation or change in insurance carriers or agencies to COD at least 30 days prior to such cancellation or change. MHR's notification shall include current certificates of insurance satisfactory to COD.

11.3. Subcontractors. MHR shall require all subcontractors to provide insurance meeting the requirements of Article XI. In lieu of this requirement, MHR may provide coverage for subcontractors by obtaining an endorsement to each policy which lists by name the subcontractors as additional insureds, provided the insurance afforded to such subcontractors is the same as that afforded to MHR.

11.4. Performance and Payment Bond. MHR, at its own expense, shall procure and maintain for the duration of the design and construction phase of the Service Contract, Performance and Payment Bonds in an amount of not less than four hundred thousand dollars (\$400,000.00) for construction of MHR's Facility. The Performance Bond and Payment Bond shall be on forms reasonably acceptable to COD. Bonds shall be executed by a surety company authorized to do business in the State of Texas and listed in the current Federal Department of Treasury Circular 570. MHR shall provide evidence of the bonds within ten (10) days following the Effective Date.

ARTICLE XII. INDEMNIFICATION

12.1. Indemnification.

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 COD, MHR, 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 COD, MHR, MHR'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. MHR SHALL DEFEND (AT THE OPTION OF THE COD), INDEMNIFY, AND HOLD THE COD, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS ("COD INDEMNITEES") HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF MHR, OR MHR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF MHR'S OBLIGATIONS UNDER THE AGREEMENT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF COD OR MHR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

MHR SHALL AT ALL TIMES REMAIN FULLY RESPONSIBLE FOR THE ACTS, INSURANCE, FEES, COSTS, BILLINGS, DECISIONS AND OMISSIONS OF ITS OWN EMPLOYEES AND SUCH THIRD PARTIES AS MHR MAY RETAIN, REGARDLESS OF THE EXTENT OF ITS CONTROL OVER THE PERFORMANCE OF SUCH THIRD PARTIES SO RETAINED.

COD SHALL AT ALL TIMES REMAIN FULLY RESPONSIBLE FOR THE ACTS, INSURANCE, FEES, COSTS, BILLINGS, DECISIONS AND OMISSIONS OF ITS OWN EMPLOYEES AND SUCH THIRD PARTIES AS COD MAY RETAIN, REGARDLESS OF THE EXTENT OF ITS CONTROL OVER THE PERFORMANCE OF SUCH THIRD PARTIES SO RETAINED.

12.2. Notice of Claims.

If any COD Indemnitee believes that it has suffered or incurred or will suffer or incur any Losses for which it is entitled to indemnification, COD shall notify MHR within thirty (30) days after COD becomes aware of the Losses for which COD is claiming indemnification. The failure of COD to give any notice required by this Article shall not affect any of such Party's rights, except to the extent that such failure is prejudicial to the rights of COD or to the ability of MHR to defend.

12.3. Third party Claims.

12.3.1. If COD gives notice to MHR of a proceeding by a third party, MHR will be entitled to assume the defense of such proceeding with counsel reasonably satisfactory to COD, unless (i) MHR is also a Party to such proceeding and COD determines in good faith that joint representation would be inappropriate, (ii) MHR fails to provide written assurance to COD of its acceptance of responsibility to defend such proceeding and provide indemnification with respect to such proceeding and of its financial capacity to provide such defense and indemnification, (iii) the claim is asserted by a governmental authority or (iv) the claim involves the seeking of an injunction that could affect COD's business, in which event COD shall be entitled to select counsel of its own choosing, reasonably satisfactory to MHR, and MHR shall be obligated to pay the fees and expenses of such counsel.

12.3.2. Except as set forth in Section 12.3.1. above, after notice from MHR to COD of its election to assume the defense of such proceeding, MHR will not, so long as it diligently conducts such defense, be liable to COD for any fees of other counsel or any other expenses with respect to the defense

of such proceeding, in each case subsequently incurred by COD in connection with the defense of such proceeding, other than reasonable costs of investigation.

12.3.3. If MHR assumes the defense of a proceeding: (i) no compromise or settlement of such claims may be effected by MHR without COD's consent, which consent may not be unreasonably withheld or delayed, unless the sole relief provided is monetary damages that are paid in full by MHR, and (ii) COD will have no liability with respect to any compromise or settlement of such claims effected without its consent.

12.4. Indemnification Rights Not Exclusive.

The rights to indemnification set forth herein are not intended to be exclusive of any other right or remedy otherwise available. All rights hereunder shall be cumulative and in addition to all other rights and remedies.

ARTICLE XIII. MISCELLANEOUS

13.1. Notices.

All notices, certificates, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and shall be deemed properly served (i) if by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if by mail, on the third (3rd) business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; (iii) if by Federal Express or other reputable express mail service for overnight delivery, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement, or (iv) if by email, on the first (1st) business day after the email was sent, provided the sender is not notified that the email was not delivered. All notices required or permitted to be served upon either Party hereunder will be directed to:

if to MHR:

Mayhill Renewables, LLC
Attention: Paul Morrow, President
10818 West County Road 72
Midland, Texas 79707
Email: paul@morrowenergy.com

with copies to:

General Counsel
5615 Knobby Knoll
Houston, TX 77092
Attention: Steve McCain
Email: legal@morrowenergy.com

if to COD:

City of Denton
Solid Waste Director
1527 S Mayhill Rd

Denton, TX 76208
Email: customer.service@cityofdenton.com

with copies to:

City of Denton
City Attorney's Office
215 E. McKinney Street
Denton, TX 76201
Email: legal@cityofdenton.com

MHR and COD may, by notice given hereunder, designate any further or different addresses to which notices, certificates, or other communications shall be sent; provided that any such notice will be deemed given only upon actual receipt.

13.3. Entire Agreement/Amendments.

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. All Exhibits attached hereto are incorporated herein by this reference.

13.4. Third party Beneficiaries.

This Agreement is not intended to confer upon any Person other than the Parties hereto any rights or remedies hereunder.

13.5. Amendments.

This Agreement may not be amended or altered except by the written agreement of MHR and COD.

13.6. Severability.

If any term or provision of this Agreement is judged to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, except as it might be necessary to effectuate the intent of the Parties, and each provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

13.7. Governing Law; Venue.

13.7.1. Governing Law. All questions with respect to the construction of this Agreement and the rights and liabilities of the Parties hereunder shall be determined in accordance with the laws and regulations of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Texas.

13.7.2. Venue. The Parties acknowledge and agree that proper venue for any action for the enforcement or interpretation of this Agreement or for damages on account of a breach will be in the State of Texas, County of Denton.

13.8. Captions.

The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

13.9. No Joint Venture.

Nothing in this Agreement shall be deemed to constitute either Party a partner, agent, or legal representative of the other Party or to create any joint venture or fiduciary or other relationship between the Parties.

13.10. Remedies.

No remedy provided in this Agreement is exclusive of any other available remedy or remedies under law or in equity.

13.11. Time is of the Essence.

Time is of the essence with respect to all dates and time periods set forth in this Agreement.

13.12. Waiver.

To the extent permitted by law, no delay or omission to exercise any right or remedy of a Party hereto shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be expedient. Any actual waiver shall be in writing and signed by the Party against whom it is to operate. For either Party to exercise any remedy hereunder, it shall not be necessary to give any notice other than as may be required in this Agreement. If any covenant contained in this Agreement should be breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Agreement.

13.13. Days.

All references to days in this Agreement shall refer to calendar days unless specified otherwise.

13.14 Public Information Act.

COD shall release information in accordance with the Texas Public Information Act, Tex. Gov't Code Chapter 552, and other applicable law or court orders. If requested, MHR shall make public information available to COD in an electronic format, and any portions of records claimed by MHR to be proprietary must be clearly marked as such. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and MHR agrees that the Agreement can be terminated if MHR knowingly or intentionally fails to comply with a requirement of that subchapter.

13.15 Required Certifications.

Prohibition on Agreements with Companies Boycotting Israel. MHR acknowledges that in accordance with Chapter 2271 of the Texas Government Code, COD 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, MHR certifies that MHR’s signature provides written verification to COD that MHR: (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 Agreements with Companies Boycotting Certain Energy Companies. MHR acknowledges that in accordance with Chapter 2276 of the Texas Government Code, COD 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, MHR certifies that MHR’s signature provides written verification to COD that MHR: (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 Agreements with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations. MHR acknowledges that in accordance with Chapter 2274 of the Texas Government Code, COD 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, MHR certifies that MHR’s signature provides written verification to COD that MHR: (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 Agreement 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 Agreements with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization. Section 2252 of the Texas Government Code restricts COD from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this Agreement, MHR certifies that MHR’s signature provides written verification to COD that MHR, pursuant to Chapter 2252, is not ineligible to enter into this Agreement and will not become ineligible to receive payments under this Agreement by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Termination Right for Agreements with Companies Doing Business with Certain Foreign-Owned Companies. The COD may terminate this Agreement immediately without any further liability if COD determines, in its sole judgment, that this Agreement meets the requirements under Chapter 2275, and MHR 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed duplicate originals by their duly authorized undersigned officers this _____ day of _____, 2025.

MAYHILL RENEWABLES, LLC

a Texas limited liability company

Paul Morrow

By: _____
EB8C53D1662A43B...

Name: Paul D. Morrow

Title: President

CITY OF DENTON, DENTON, TEXAS

A Texas non-profit local government corporation By:

_____ Name:

Title:

ATTEST:

LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:

MACK REINWAND, CITY ATTORNEY

DocuSigned by:

Marcella Lunn

BY: _____
4B070831B4AA438...

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

Signed by:

Brenda Haney

Brenda Haney

C3C63BE563154A1...

SIGNATURE PRINTED NAME

Director

TITLE

Solid Waste & Recycling

DEPARTMENT

EXHIBIT 1 LANDFILL CONNECTION POINT

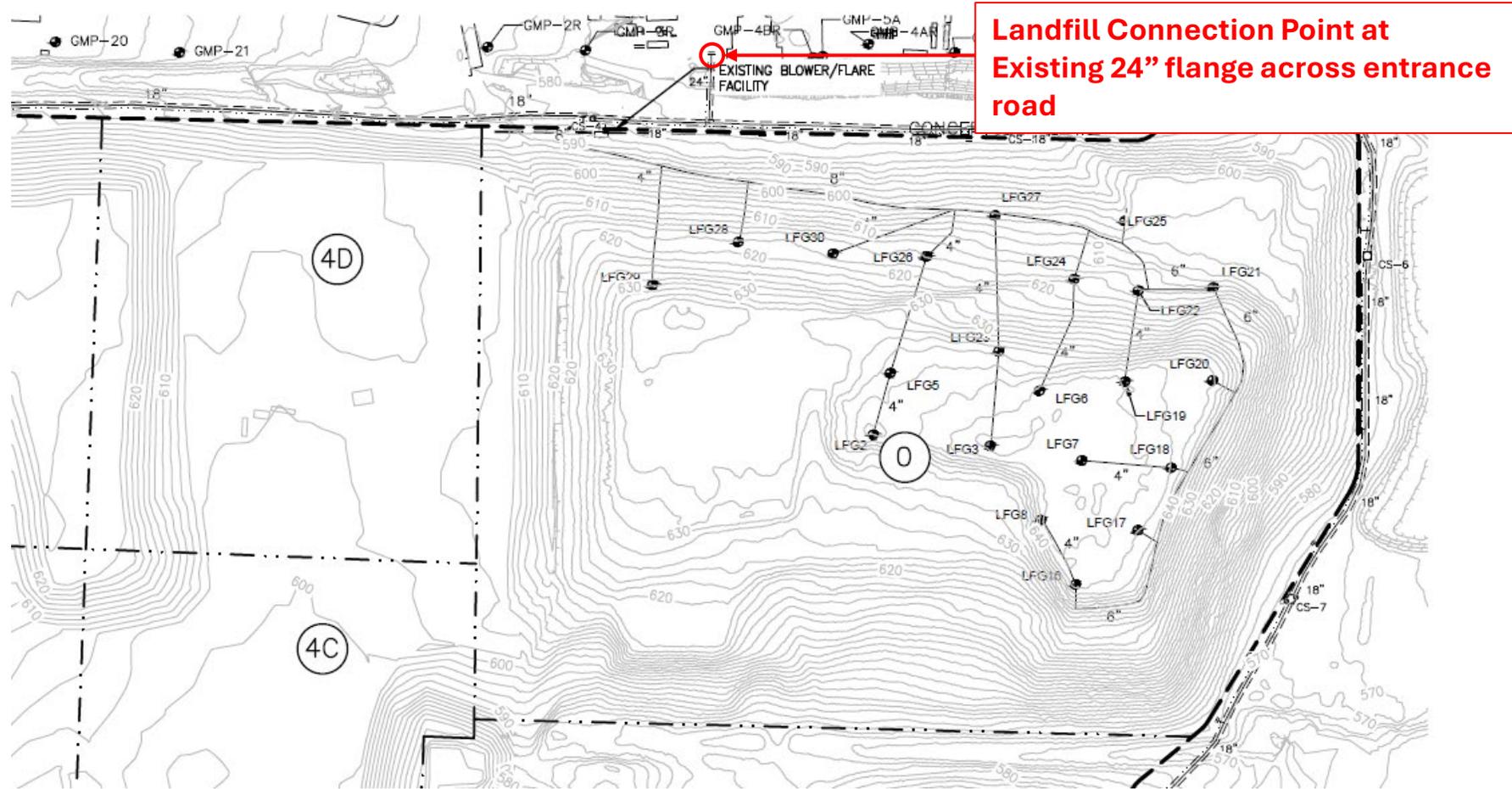


EXHIBIT 1-B

Site Layout

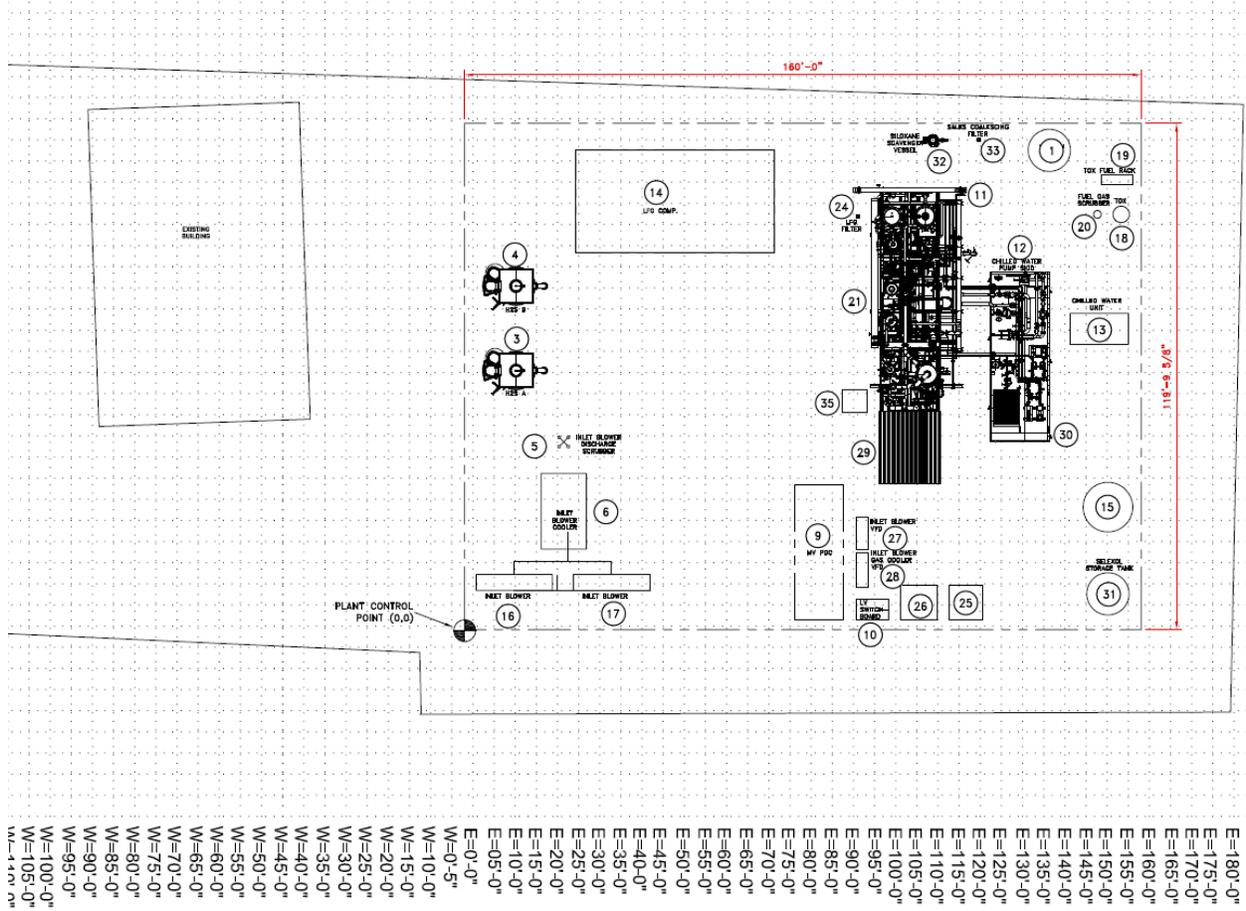
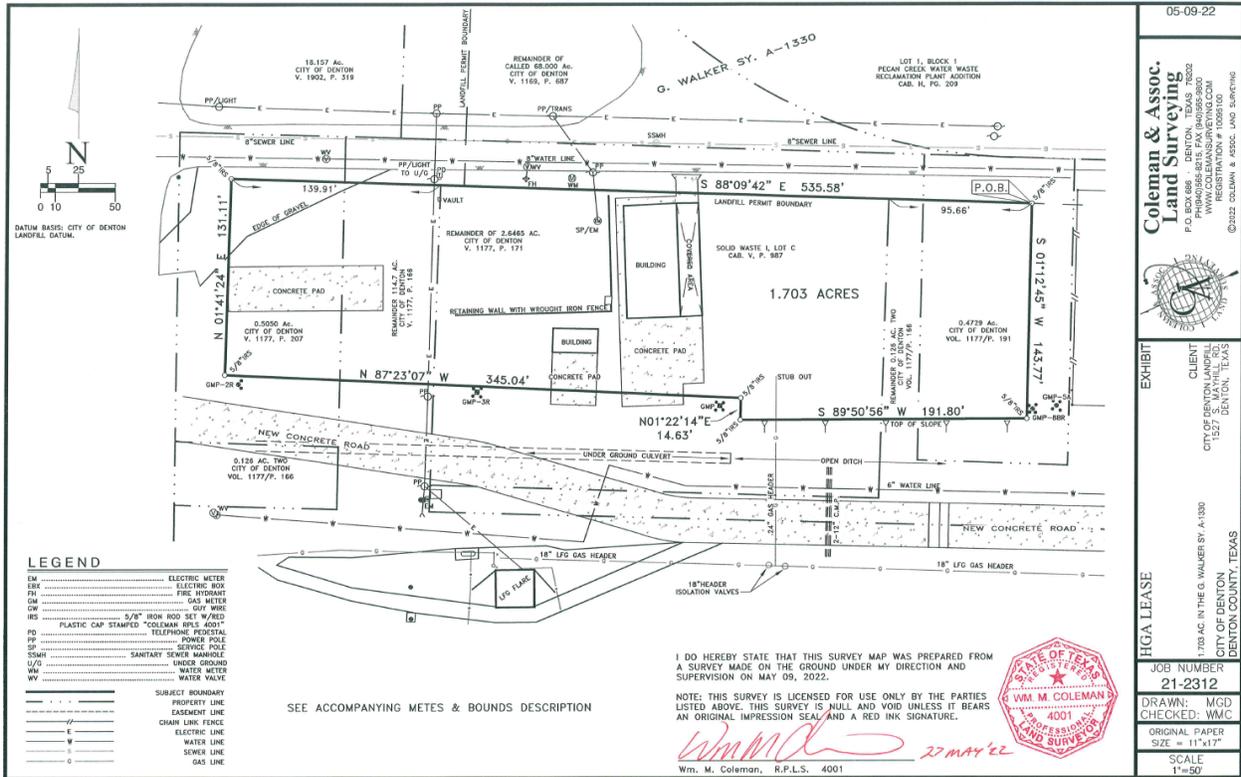


EXHIBIT 2

Site Description



05-09-22	
<small> P.O. BOX 886 • DENTON, TEXAS 76202 WWW.COLEMANLANDSURVEYING.COM REGISTRATION # 10085100 ©2022 COLEMAN & ASSOC. LAND SURVEYING </small>	
EXHIBIT	CLIENT CITY OF DENTON, LANDFILL 1527 DENTON, TEXAS
HGA LEASE	1.703 AC. IN THE G. WALKER ST. A-1330 CITY OF DENTON DENTON COUNTY, TEXAS
JOB NUMBER	21-2312
DRAWN: MGD	CHECKED: WMC
ORIGINAL PAPER	SIZE = 11"x17"
SCALE	1"=50'

I DO HEREBY STATE THAT THIS SURVEY MAP WAS PREPARED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION ON MAY 09, 2022.

NOTE: THIS SURVEY IS LICENSED FOR USE ONLY BY THE PARTIES LISTED ABOVE. THIS SURVEY IS NULL AND VOID UNLESS IT BEARS AN ORIGINAL IMPRESSION SEAL AND A RED INK SIGNATURE.

Wm. M. Coleman, R.P.L.S. 4001



SEE ACCOMPANYING METES & BOUNDS DESCRIPTION



Coleman & Assoc. Land Surveying

P. O. Box 686
Denton, Texas 76202
Phone (940)565-8215 Fax (940)565-9800
REGISTRATION #10095100

1.703 Acres of Land

FIELD NOTES to all that certain tract of land situated in the G. Walker Survey Abstract Number 1330, City of Denton, Denton County, Texas and being a part of Lot C, Solid Waste I as shown by the plat thereof recorded in Cabinet V, Page 987 of the Plat Records of Denton County, Texas; a part of the called 0.5050 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 207 of the Deed Records of Denton County, Texas; a part of the called 114.7 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 166 of the said Deed Records; a part of the called 2.6465 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 171 of the said Deed Records; part of the called 0.126 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 166 of the said Deed Records; and part of the called 0.4729 acre tract described in the deed to the City of Denton recorded in Volume 1177, Page 191 of the said Deed Records; the subject tract being more particularly described as follows:

BEGINNING for the Northeast corner of the tract being described herein at a 5/8 inch iron rod with a red plastic cap stamped "COLEMAN RPLS 4001" set (hereinafter referred to as 5/8IRS) in the North line of the current City of Denton Landfill Permit Boundary on the South side of an asphalt road and being South 88 Degrees 09 Minutes 42 Seconds East a distance of 95.66 feet from the Northeast corner of the said Lot C;

THENCE South 01 Degrees 12 Minutes 45 Seconds West departing the road across the 0.4729 acre tract a distance of 143.77 feet to a 5/8IRS for the Southeast corner of the herein described tract on the North side of an open ditch;

THENCE South 89 Degrees 50 Minutes 56 Seconds West along the North side of the said ditch across the 0.4729 acre tract passing at a distance of 97.3 feet the East line of Lot C and continuing along, in all, a total distance of 191.80 feet to a 5/8IRS for an angle point in the South line of the herein described tract;

THENCE North 01 Degrees 22 Minutes 14 Seconds West departing the North side of the ditch and continuing across Lot C a distance of 14.63 feet to a 5/8IRS for an angle point in the South line of the herein described tract;

THENCE North 87 Degrees 23 Minutes 07 Seconds West continuing across Lot C passing at a distance of 205.5 feet the West line thereof and across the 114.7 acre tract and the 0.5050 acre tract, in all, a total distance of 345.04 feet to a 5/8IRS for the Southwest corner of the herein described tract;

THENCE North 01 Degrees 41 Minutes 24 Seconds East across the 0.5050 acre tract a distance of 131.11 feet to a 5/8IRS for the Northwest corner of the herein described tract;

THENCE South 88 Degrees 09 Minutes 42 Seconds East across the said 0.5050 acre tract and the said 114.7 acre tract passing at a distance of 139.91 feet the Northwest corner of Lot C and continuing along the same course, in all, a total distance of 535.58 feet to the PLACE OF BEGINNING and enclosing 1.703 acres of land.

See accompanying Exhibit.



EXHIBIT 3

City / Developer Responsibilities

**LANDFILL GAS COLLECTION SYSTEM
COD / DEVELOPER RESPONSIBILITIES**

TASK LIST	PHYSICAL RESPONSIBILITIES		FINANCIAL RESPONSIBILITIES	
	COD	Developer	COD	Developer
Gas Collection System Operation & Maintenance				
Providing vacuum to the wellfield		X		X
Monitoring wellfield		X		X
Extraction Wells – installation, operation, maintenance, and monitoring		X		X
Horizontal collectors – installation, operation, maintenance, and monitoring		X		X
LFG Piping – installation, operation, maintenance, and monitoring		X		X
LFG Valves – installation, operation, maintenance, and monitoring		X		X
Condensate Sump/Pumps – installation, operation, maintenance, and monitoring		X		X
Well Pumps – installation, operation, maintenance, and monitoring		X		X
Airline piping – installation, operation, maintenance, and monitoring		X		X
Condensate force main piping – installation, operation, maintenance, and monitoring		X		X
Electrical conduit – installation, operation, maintenance, and monitoring	X		X	
Maintenance of monitoring instruments		X		X
Perimeter LFG Probes				
Quarterly LFG probe Monitoring	X		X	
Maintain Records of probe readings	X		X	
Submittal of Probe Reports to State	X		X	
Maintenance/repair of probes (to be determined based on need)	X		X	
Regulatory Issues				
NSPS surface emission monitoring (includes remonitoring)	X		X	
NSPS wellhead monitoring (includes remonitoring)		X		X
SSM recordkeeping/reporting		X		X
Maintain records of well		X		X
General landfill cover maintenance	X		X	
Emission Fees (flare)	X		X	
Emission Fees (landfill)	X		X	
Emission Fees (energy)		X		X
Recordkeeping (flare data)		X		X
Recordkeeping (energy data)		X		X
Compliance Investigation	X		X	
Groundwater remediation due to LFG impacts – coordination with state	X		X	
Groundwater remediation due to LFG impacts		X		X
Probe remediation due to LFG migration– coordination with state	X		X	
Probe remediation due to LFG migration		X		X
Odor remediation related to LFG – coordination with state	X		X	
Odor remediation related to LFG		X		X

TASK LIST	PHYSICAL RESPONSIBILITIES		FINANCIAL RESPONSIBILITIES	
	COD	Developer	COD	Developer
Subsurface combustion related to LFG system – coordination with state	X		X	
Subsurface combustion related to LFG system		X		X
Monthly GHG methane readings (flare)		X		X
Monthly GHG methane readings (energy)		X		X
Reporting				
Semi-annual NSPS Report to State Authority (landfill)	X		X	
Semi-annual NSPS Report to State Authority (energy)		X		X
Semi-annual Title V Report to State Authority – Landfill permit (landfill)	X		X	
Semi-annual Title V Report to State Authority – Landfill permit (energy)		X		X
Semi Annual SSM report to State Authority (landfill)	X		X	
Semi Annual SSM report to State Authority (energy)		X		X
Emission Inventory report for landfill/flare to State Authority	X		X	
Emission Inventory report for energy facility to State Authority		X		X
Annual GHG Reporting to EPA (landfill)	X		X	
Annual GHG Reporting to EPA (energy)		X		X
TCEQ MSW Annual Report (landfill)	X		X	
TCEQ MSW Annual Report (energy)		X		X
GOPG'S Flare and Blower System				
Blower and flare system maintenance		X	X	
Blower and flare system operation		X	X	
General record keeping maintained on site		X	X	
Propane		X	X	
Calibration gas		X	X	
Calibrating flare flow meter		X	X	
Spare parts for inventory (flare system)		X	X	
Air Compressor		X	X	
Nitrogen bottle		X	X	
Blower and flare system repairs		X	X	
Flare visible emission observations	X		X	
Buyer's Facility		X		X
Grounds Maintenance				
Mowing	X		X	
General landfill cover maintenance	X		X	
Weed whipping for access (wells, probes, valves)	X		X	
Probe bollard repairs	X		X	
Road maintenance/snow removal of landfill roads	X		X	
Gas Collection System Repairs				
Piping repairs due to landfill equipment or personnel (includes cover material)		X		X
Piping repairs not caused by landfill equipment or personnel (includes cover material)		X		X
Subsurface well repairs		X		X
Condensate sump repairs		X		X

TASK LIST	PHYSICAL RESPONSIBILITIES		FINANCIAL RESPONSIBILITIES	
	COD	Developer	COD	Developer
GCCS expansions in the landfill (construction, engineering, permitting)		X		X
GCCS expansions (CQA) – As applicable/if needed		X	X	
Condensate Disposal				
Condensate disposal (field sumps)		X	X	
Condensate disposal (energy facility equipment)		X		X
Meters				
Sales Flow Meter		X		X
Calibrating Sales Flow Meter		X		X
Methane/BTU Analyzer		X		X
Calibrating Methane/BTU Analyzer		X		X
Data Recorder (Flow and Methane/BTU)		X		X
Monitoring Port		X		X

EXHIBIT 4

Royalties

Gross Revenue Each Month	Royalty
\$ 0.01 – \$ 500,000.00	15% of Gross Revenue
\$ 500,000.01 – 1,000,000.00	21% of Gross Revenue
\$ 1,000,000.01 and above	27% of Gross Revenue

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.

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

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

Yes No

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

Yes No

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

Yes No

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

4 I have no Conflict of Interest to disclose.

**5 DocuSigned by:
Paul Morrow**

7/30/2025

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/ Docs/LG/hm/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: A3ED5FC4-E02F-4C1C-94A5-27F649D1CB12
 Subject: Please DocuSign: City Council Contract 8465 Landfill Gas to Energy Project
 Source Envelope:
 Document Pages: 49
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Crystal Westbrook
 901B Texas Street
 Denton, TX 76209
 crystal.westbrook@cityofdenton.com
 IP Address: 198.49.140.10

Record Tracking

Status: Original
 7/28/2025 10:33:34 AM
 Holder: Crystal Westbrook
 crystal.westbrook@cityofdenton.com
 Location: DocuSign

Signer Events

Crystal Westbrook
 crystal.westbrook@cityofdenton.com
 Senior Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Signature

Completed
 Using IP Address: 198.49.140.10

Timestamp

Sent: 7/28/2025 10:40:29 AM
 Viewed: 7/28/2025 11:37:22 AM
 Signed: 7/28/2025 11:39:32 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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


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

Sent: 7/28/2025 11:39:35 AM
 Viewed: 7/30/2025 10:29:27 AM
 Signed: 7/30/2025 10:29:48 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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


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

Sent: 7/30/2025 10:29:51 AM
 Viewed: 7/30/2025 10:32:05 AM
 Signed: 7/30/2025 10:33:28 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Paul Morrow
 paul@morrowenergy.com
 President
 Morrow Family Capital Investments
 Security Level: Email, Account Authentication
 (None)


 Signature Adoption: Pre-selected Style
 Using IP Address: 12.182.147.58

Sent: 7/30/2025 10:33:31 AM
 Viewed: 7/30/2025 11:21:07 AM
 Signed: 7/30/2025 11:26:53 AM

Electronic Record and Signature Disclosure:
 Accepted: 7/30/2025 11:21:07 AM
 ID: e59dea90-0ea7-40b2-a5ba-9daae67f1929

Signer Events

Brenda Haney
brenda.haney@cityofdenton.com
Director
Security Level: Email, Account Authentication (None)

Signature

Signed by:

C3C63BE563154A1...
Signature Adoption: Pre-selected Style
Using IP Address: 198.49.140.10

Timestamp

Sent: 7/30/2025 11:26:57 AM
Viewed: 7/30/2025 11:28:49 AM
Signed: 7/30/2025 11:29:09 AM

Electronic Record and Signature Disclosure:

Accepted: 7/30/2025 11:28:49 AM
ID: ec10f393-a01e-4c73-baf6-d51b0f6a88f9

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

Sent: 7/30/2025 11:29:13 AM

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: 7/28/2025 11:39:35 AM

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: 7/30/2025 11:29:13 AM
Viewed: 7/30/2025 4:08:00 PM

Carbon Copy Events	Status	Timestamp
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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

Peter Smith
psmith@morrowenergy.com
Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	7/28/2025 10:40:29 AM
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Payment Events	Status	Timestamps
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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.

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:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: ID 25-1520, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton nominating members to the Board of Directors of the Denton Central Appraisal District; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: Finance
ACM: Christine Taylor
DATE: September 9, 2025

SUBJECT

Consider approval of a resolution of the City of Denton nominating members to the Board of Directors of the Denton Central Appraisal District; and providing an effective date.

BACKGROUND

The Denton Central Appraisal District (DCAD) has notified the City that the term for two members (Places 4 & 7) on the current DCAD Board of Directors expires on December 31, 2025. Therefore, DCAD is seeking nominations from the taxing jurisdictions in the district. The City Council may nominate one individual per open place, for a total of up to two nominees. Once nominations are received by DCAD, a ballot will be sent to the City. The City Council will then cast their vote to elect Board members at the December 2, 2025 City Council meeting.

During the second special session of the 88th Legislature, the passing of Senate Bill 2 changed the terms and composition of the board. The DCAD Board of Directors increased from a 5-member board to a 9-member board. The board composition includes 5 members appointed by the taxing jurisdictions, the Tax Assessor/Collector serving as a voting member, and 3 publicly elected members. There were no changes made to the nomination and appointment process for taxing jurisdictions. Board members serve staggered 4-year terms.

The number of votes a taxing unit has is determined by their proportional share of the total levy in the district from the prior tax year. There is a total of 5,000 votes throughout the district. Current allocated votes for the City of Denton are being calculated by DCAD. The two candidates who receive the largest cumulative vote totals are appointed to the board.

The current Board of Directors is as follows:

Name	Title
Alex Buck	Chairman – Place 6
Ann Pomykal	Vice Chairman – Place 4
Angie Cox	Secretary – Place 1
Lisa McEntire	Member – Place 2
Rick Guzman	Member – Place 3
Rob Altman	Member – Place 5
Mike Hennefer	Member – Place 7
Charles Stafford	Member – Place 8
Dawn Waye	TAC – Member – Place 9*

*Position changing to a voting member in 2024

The following is a summarization of DCAD’s nomination & approval process:

Prior to October 1st - DCAD notifies taxing entities of the number of votes they are entitled to cast for appointing board members.

Prior to October 15th - Nominations are submitted to DCAD by each jurisdiction. Each jurisdiction can nominate up to two candidates.

Prior to October 30th - DCAD compiles a comprehensive list of the nominees and forwards to each taxing unit in the form of a ballot.

Prior to December 15th - The taxing jurisdictions choose by written resolution the candidate (s) of their choice. The jurisdiction then submits the name (s) and the votes cast to DCAD.

Prior to December 31st - DCAD tabulates the votes and forwards the results back to the jurisdictions. The two candidates that receive the most votes begin serving their terms on the Board of Directors as of January 1st, 2026.

Eligibility Guidelines:

The selection process for the Board of Directors is set forth in Section 6.03 of the Property Tax Code. This process is not an “election” governed by the Texas Election Code. It is an independent procedure unique to the property tax system. An appraisal district director must reside in the appraisal district for at least two (2) years immediately preceding the date the member takes office. Most residents are eligible to serve as a director. An individual who is serving on the governing body of a city, county, or school district is eligible to serve as an appraisal district’s director. An employee of a taxing unit served by the appraisal district is not eligible to serve as a director. However, if the employee is an elected official, he or she is eligible to serve. Additionally, a person may not serve as a board member if closely related to anyone in the appraisal district if related to anyone who represents owners in the district, or if the person has an interest in a business that contracts with the district or taxing jurisdiction.

EXHIBITS

- Exhibit 1 - Agenda Information Sheet
- Exhibit 2 - Resolution
- Exhibit 3 - DCAD Memo
- Exhibit 4 - Presentation

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON NOMINATING MEMBERS TO THE BOARD OF DIRECTORS OF THE DENTON CENTRAL APPRAISAL DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the term of office for the Board of Directors of the Denton Central Appraisal District (DCAD) will expire on December 31, 2025; and

WHEREAS, pursuant to Tax Code, Title 1, Subtitle B, Chapter 6 , Subchapter A, Sections 6.0301(b) and 6.03(g), each taxing unit other than a conservation and reclamation district that is entitled to vote may nominate by resolution adopted by its governing body one candidate for each position to be filled on the board of directors. The presiding officer of the governing body of the unit shall submit the names of the unit's nominees to the chief appraiser before October 15; and

WHEREAS, each jurisdiction may nominate by resolution up to two people to be considered for the DCAD Board of Directors to begin serving on January 1, 2026 for a four-year term ending December 31, 2029; and

WHEREAS, to be eligible to serve on the board, an individual must be eligible pursuant to Chapter 6 of the Texas Property Tax Code, including being a resident of the district (Denton County) and having resided in the district for at least two years immediately preceding the date they take office. Employees of a taxing unit served by the appraisal district are ineligible unless they are an elected official; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitals which are set forth in the preamble of this Resolution are incorporated herein and are made part of this Resolution for all purposes.

SECTION 2. The City of Denton hereby nominates the following individuals as members to the Board of Directors of the Denton Central Appraisal District.

Nominee Name _____
Nominee Address _____
Nominee Address _____

Nominee Name _____
Nominee Address _____
Nominee Address _____

SECTION 3. 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: _____



Denton Central Appraisal District
3911 Morse Street
Denton, TX 76208

 (940) 349-3800
 www.dentoncad.com

M E M O

TO: Participating Taxing Entities of Denton County
FROM: Don Spencer, Chief Appraiser
SUBJECT: Request for Nominations for DCAD Board of Directors (Places 4 & 7)
DATE: August 8, 2025

In accordance with Section 6.03(g) of the Texas Property Tax Code, each taxing entity entitled to vote in the election of appraisal district directors is hereby notified of its responsibility to submit nominations for the upcoming Denton Central Appraisal District (DCAD) Board of Directors election.

Open Positions

- **Place 4** – currently held by *Ann Pomykal* (Vice Chair)
- **Place 7** – currently held by *Mike Hennefer*

Each taxing entity may nominate one individual per open place, for a total of up to two nominees. Nominations must be submitted by written resolution before October 15, 2025. Please include the full name and contact information for each nominee. The District will send a short questionnaire to each nominee to provide additional information to the voting entities.

2025 Board Nomination & Appointment Calendar

- **By October 1** – Chief Appraiser will provide each taxing entity its allocated number of votes for the Board election.
- **Before October 15** – Each entity must submit adopted resolution(s) nominating up to two individuals.

- **Before October 30** – The Chief Appraiser will compile and distribute the list of nominees in the form of an official ballot.
 - **Before December 15** – Taxing entities may cast their votes by resolution.
*Note: Per Section 6.03(k-1), any taxing entity entitled to cast at least five percent of the total votes must determine its vote by resolution adopted at the **first or second open meeting** of its governing body after receipt of the ballot, and must submit its vote to the Chief Appraiser **no later than the third day following adoption of the resolution**.*
 - **Before December 31** – The two nominees receiving the highest number of votes will be confirmed and will begin serving on January 1, 2026 for a four-year term ending December 31, 2029.
-

Eligibility & Statutory Guidelines

Legal Framework:

This process is governed by Section 6.03 of the Texas Property Tax Code and is separate from any procedures under the Texas Election Code.

Chief Appraiser's Role:

My role is to initiate and coordinate the nomination and voting process. I do not have the authority to evaluate, investigate, or determine nominee eligibility or qualifications. This responsibility rests with each governing body participating in the election. I am also not permitted to extend statutory deadlines.

Basic Eligibility Requirements:

- Must have resided in Denton County for at least two years prior to taking office.
 - May currently serve on the governing body of a city, county, or school district.
 - Employees of taxing entities served by DCAD are ineligible unless they are elected officials.
 - Must not have conflicts of interest as defined by state law, including:
 - Close relation to DCAD staff
 - Representation of property owners in the district
 - Interest in businesses contracting with DCAD or any taxing entity
-

Term of Office

In accordance with Section 6.031(e) of the Texas Property Tax Code, the two board members selected will serve a four-year term from January 1, 2026 through December 31, 2029.

Meeting Frequency

Pursuant to Section 6.04(b) of the Property Tax Code, the Board of Directors is required to meet no less than once each calendar quarter. Historically, the DCAD Board has convened on the second Thursday of most months; however, the meeting schedule is established at the Board's discretion and may be revised to meet operational needs.

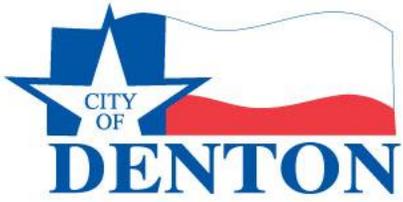
Should you have any questions about the process or deadlines, please reach out to my office. Thank you for your ongoing commitment to the work of the Denton Central Appraisal District.

Sincerely,

Don Spencer



Chief Appraiser
Denton Central Appraisal District



Denton Central Appraisal District

Board of Directors Nominations

Matt Hamilton, AD Finance

Finance Department

DCAD Board of Directors

- The Board of Directors Role in the Property Tax System
 - The local property tax system follows the principle of checks and balances. An appraisal district board of directors hires the chief appraiser and sets the budget. The directors have no authority to set values or appraisal methods. The chief appraiser carries out the appraisal district's legal duties, hires the staff, makes the appraisals and operates the appraisal office.
- Current Board of Directors

Name	Title
Alex Buck	Chairman – Place 6
Ann Pomykal	Vice Chairman – Place 4
Angie Cox	Secretary – Place 1
Lisa McEntire	Member – Place 2
Rick Guzman	Member – Place 3
Rob Altman	Member – Place 5
Mike Hennefer	Member – Place 7
Charles Stafford	Member – Place 8
Dawn Waye	TAC – Member – Place 9*



Background & Eligibility

- Board members will serve staggered four-year terms.
- Board of Directors currently has a 9-member board, with 5 members appointed by the taxing jurisdictions.
 - Tax Assessor will serve as voting member
 - 3 publicly elected members
- Two board member terms expires on December 31, 2025 (Places 4 & 7).
- City Council may nominate up to two nominees.
- Eligibility –
 - Must reside in the appraisal district for at least two-years immediately preceding the date they take office;
 - City, County or School District elected officials are eligible;
 - Employees of a taxing unit are not eligible unless they are an elected official as well;
 - Person not eligible, if closely related to anyone in the appraisal district, or related to anyone who represents owners in the district, or if the person has an interest in a business that contracts with the district or a taxing unit.



Nomination Process

- **Prior to October 1st** – DCAD Notifies taxing entities of the number of votes they are entitled to cast for appointing board member.
- **Prior to October 15th** – Nominations are submitted to DCAD by each jurisdiction. Each jurisdiction can nominate up to two (2) candidates.
- **Prior to October 30th** – DCAD compiles a comprehensive list of the nominees and forward to each taxing unit in the form of a ballot.
- **Prior to December 15th** – The taxing jurisdictions choose by written resolution the candidate(s) of their choice. The jurisdiction then submits the name(s) and the votes cast to DCAD.
- **Prior to December 31st** – DCAD tabulates the votes and forwards the results back to the jurisdictions. The two candidates that receive the most votes start their terms on the Board of Directors as of January 1st.



Next Steps

- December 2, 2025 – City Council to vote for Board Members.
 - Total Votes for 2024 all Tax Units = 5,000
 - City of Denton Votes Last Year = 189 (3.78%)
 - Current votes for City of Denton being calculated



Questions

