



# City of Denton

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

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## AGENDA INFORMATION SHEET

**DEPARTMENT:** Capital Projects

**ACM:** Frank Dixon

**DATE:** July 22, 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 settlement agreement with McCarthy Building Companies Inc. to resolve a dispute regarding Measured Mile Claim providing for final payment and closeout for construction phase services for Southeast Denton Package B (SED-B) Improvements for the Capital Projects Department.

### **INFORMATION/BACKGROUND**

The Southeast Denton Neighborhood contains 71 roadway segments that were reconstructed as part of the voter-approved 2019 Street Reconstruction Bond. Along with the full reconstruction of the identified street segments, the project also includes the replacement of aging utility infrastructure, enhanced sidewalk connectivity, and various street lighting upgrades. Southeast Denton Package B (SED-B) contains the remaining 49 roadway segments. The scope of work for segments in Package B includes full-depth street reconstruction and various utility replacements as needed.

During construction, McCarthy Building Companies, Inc. claimed to encounter differing site conditions within the limits of the project. Several encounters were approved and compensated by owners contingency during the project. Per Article 6.2.1 in the construction contract, McCarthy Building Companies, Inc filed a claim with the City of Denton for additional compensation for loss of production by the differing site conditions in the amount of approximately \$2,000,000.00. The City of Denton reviewed the claim in its entirety and ultimately denied the claim. McCarthy then invoked a contractual clause to allow the claim to be heard by a mediator. Mediation was held in January 2025 and was unsuccessful. City Staff and McCarthy continued negotiating and ultimately arrived at a settlement. The settlement agreement provided by McCarthy would entitle them to an extension of time in lieu of proceeding with the claim. The extension of time would remove the obligation for McCarthy to pay liquidated damages and any additional costs incurred by the City, which are estimated to be at a minimum approximately \$500,000.00. With approval of the agreement, an extension of time would be granted and the claim for additional compensation would be dropped in full, allowing for the full resolution of McCarthy's claim with no additional compensation from the City other than specific approved costs that were not related to the initial claim.

### **PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

On October 19, 2021, Council approved a Professional Services Agreement with Kimley-Horn and Associates, Inc., to provide design services for the Southeast Denton Package – B Improvements (Ordinance 21-2168).

On December 14, 2021, City Council approved a CMAR contract for design phase services with McCarthy Building Companies, Inc. (Ordinance 21-2686).

On November 15, 2022, City Council approved CMAR contract for construction phase services with McCarthy Building Companies, Inc. (Ordinance 22-2282).

On February 24, 2025, Public Utilities Board (PUB) approved Change Order No. 1 with McCarthy Building Companies, Inc.

On March 4, 2025, City Council approved Change Order No. 1 with McCarthy Building Companies, Inc. (Ordinance 25-511).

**RECOMMENDATION**

Approve the settlement agreement with McCarthy Building Companies, Inc. for final close out of construction phase services for SED-B for the Capital Projects Department.

**PRINCIPAL PLACE OF BUSINESS**

McCarthy Building Companies, Inc.  
Dallas, TX

**ESTIMATED SCHEDULE OF PROJECT**

Construction for SED-B started January 17, 2023 with final completion Q1 of 2025.

**EXHIBITS**

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Ordinance and Settlement Agreement and Mutual Release

Exhibit 3 – Ordinance and Preconstruction Services Contract, Ordinance and Construction Services Contract, Contingency Use Authorization 1-5, Ordinance and Change Order No. 1

Respectfully submitted:  
Seth Garcia, PMP  
Director of Capital Projects

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