

ORDINANCE NO. 2017 - \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENGAGEMENT LETTER WITH THE LAW FIRM OF DAVID A. PORTZ, P.C., HOUSTON, TEXAS FOR PROFESSIONAL LEGAL SERVICES TO BE PROVIDED TO THE ENERGY MANAGEMENT ORGANIZATION OF THE CITY'S ELECTRIC DEPARTMENT, DENTON MUNICIPAL ELECTRIC; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; PROVIDING AN EFFECTIVE DATE (FILE NO. 5554 - IN THE ADDITIONAL AMOUNT OF NOT-TO-EXCEED \$75,000, AGGREGATING NOT-TO-EXCEED \$250,000).

WHEREAS, the City Council deems it necessary, appropriate, and in the public interest to continue the engagement of David A. Portz, P.C. of Houston, Texas to provide professional legal services relating to the operations and regulatory compliance of the Energy Management Organization of the City's electric department, Denton Municipal Electric; and

WHEREAS, on April 28, 2014, the City Manager approved the original Engagement Letter to provide professional legal services to the City of Denton in the amount of not-to-exceed \$75,000; and

WHEREAS, on November 18, 2014, the City Council considered a supplement and first amendment to the Engagement Letter, in the additional not-to-exceed amount of \$50,000; and enacted Ordinance No. 2014-393; and

WHEREAS, on March 1, 2016, the City Council considered an amended Engagement Letter, in the additional not-to-exceed amount of \$50,000; and enacted Ordinance No. 2016-065; and

WHEREAS, there is a need to further engage the services of David A. Portz, P.C. as there are ongoing duties regarding the negotiation of EEI Master Agreements, ISDA Master Agreements, Dodd-Frank regulatory compliance, and other duties which require the services of specialized legal counsel; Staff is seeking the sum of an additional \$75,000 for such legal services through the end of the next Fiscal Year; the total not-to-exceed amount for this professional is not-to-exceed \$250,000; and

WHEREAS, Chapter 2254 of the Texas Government Code, known as the "Professional Services Procurement Act," generally provides that a City may not select a provider of professional services on the basis of competitive bids, but must select the provider of professional services on the basis of demonstrated competence, knowledge, and qualifications, and for a fair and reasonable price; and the City Council finds and concludes that the law firm of David A. Portz, P.C., Houston, Texas (the "Firm") is appropriately qualified under the provisions of the law to be retained as outside legal counsel for the City; and

WHEREAS, the City Council has provided in the City budget for the appropriation of funds to be used for the procurement of the foregoing additional professional legal services, as set forth in the third supplemental and amended Engagement Letter; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations in the preamble are true and correct and are incorporated as part of this ordinance.

SECTION 2. The City Manager, or his designee, is authorized to execute the attached Engagement Letter dated February 1, 2017 with the law firm of David A. Portz, P.C. for further professional legal services relating to the Energy Management Organization of the City's electric department, Denton Municipal Electric. The Engagement Letter is attached hereto as Exhibit "A," and is incorporated herein by reference.

SECTION 3. The award is made on the basis of the demonstrated competence and qualifications of David A. Portz, P.C. (the "Firm") and the ability of the Firm to perform the professional legal services needed by the City for a fair and reasonable price.

SECTION 4. The expenditure of funds as provided in the attached Engagement Letter is hereby authorized.

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

PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2017.

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CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

By: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
AARON LEAL, INTERIM CITY ATTORNEY

By:  \_\_\_\_\_