



City of Denton

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

Meeting Agenda Public Utilities Board

Monday, January 12, 2026

9:00 AM

Council Work Session Room

REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD

Citizens will be able to participate in the following way:

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

After determining that a quorum is present, the Public Utilities Board of the City of Denton, Texas will convene in a Regular Meeting on Monday, January 12, 2026, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

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

2. CONSENT AGENDA

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

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

- A. [PUB25-236](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a

contract between the City of Denton and Core & Main LP, dba Green Equipment Company, amending the contract approved by City Council on January 24, 2023, in the not-to-exceed amount of \$787,500.00; said first amendment to add Buy Board Cooperative Program Contract No. 776-25 for Radiodetection, Pearpoint & Hathorn Sewer Inspection Equipment and Repair, and Sourcewell Cooperative Purchasing Network Contract No. 120721 for Envirosight Sewer Inspection Equipment and Repair, awarded to Envirosight LLC, with Core & Main LP dba Green Equipment Company operating as an authorized dealer, for the Wastewater Collection Department; providing for the expenditure of funds therefor; and providing an effective date (File 8148 - providing for an amendment to the ordinance to add the Buy Board Cooperative Program Contract No. 776-25, and Sourcewell Cooperative Purchasing Network Contract No. 120721).

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

- B. [PUB25-237](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Lockwood, Andrews & Newnam, Inc., for engineering services of the Robson West Lift Station for the Water Utilities Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8213-008 - Professional Services Agreement for engineering services awarded to Lockwood, Andrews & Newnam, Inc., in the not-to-exceed amount of \$2,545,098.00).

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

- C. [PUB25-238](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Quality Excavation, LLC, for the construction of the Riney Road East Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8775 - awarded to Quality Excavation, LLC, in the not-to-exceed amount of \$1,947,434.29).

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

- D. [PUB25-239](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8879 for DEC Engine Maintenance Spare Parts and Services for the Denton Energy Center; and providing an effective date (RFP 8879).

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

- E. [PUB25-240](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a

contract with Schweitzer Engineering Laboratories, Inc., for the purchase of electric utility protective control relays for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (IFB 8891 - awarded to Schweitzer Engineering Laboratories, 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 \$3,267,476.00).

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

- F. [PUB25-241](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Rehrig Pacific Company, for the purchase of residential trash and recycling carts for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8894 - awarded to Rehrig Pacific Company, 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 \$3,115,450.00).

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

- G. [PUB25-242](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with New Waste Concepts Inc, for the purchase, lease, and repairs of spray on cover equipment and supplies for the Fleet Services Department, which is the sole provider of this equipment and associated supplies, 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 8956 - awarded to New Waste Concepts Inc, for three (3) years, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$724,500.00).

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

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [PUB25-245](#) Receive nominations and hold elections for Chair, Vice Chair, and Secretary.
- B. [PUB25-244](#) Consider approval of the December 15, 2025 minutes.

Attachments: [12.15.25 PUB Minutes](#)

- C. [PUB25-243](#) Management Reports
 1. Future Agenda Items

2. New Business Action Items

Attachments:[1. Future Agenda Items](#)[2. New Business Action Items](#)**6. CONCLUDING ITEMS**

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

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (<https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on January 5, 2026, in advance of the three (3) business day posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

OFFICE OF THE CITY SECRETARY

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



City of Denton

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

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Core & Main LP, dba Green Equipment Company, amending the contract approved by City Council on January 24, 2023, in the not-to-exceed amount of \$787,500.00; said first amendment to add Buy Board Cooperative Program Contract No. 776-25 for Radiodetection, Pearpoint & Hathorn Sewer Inspection Equipment and Repair, and Sourcewell Cooperative Purchasing Network Contract No. 120721 for Envirosight Sewer Inspection Equipment and Repair, awarded to Envirosight LLC, with Core & Main LP dba Green Equipment Company operating as an authorized dealer, for the Wastewater Collection Department; providing for the expenditure of funds therefor; and providing an effective date (File 8148 – providing for an amendment to the ordinance to add the Buy Board Cooperative Program Contract No. 776-25, and Sourcewell Cooperative Purchasing Network Contract No. 120721).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The existing Green Equipment contract was established to purchase sewer equipment, replacement parts, and repair services from Buy Board Cooperative Contract #676-22. This amendment is recommended to replace the expired Buy Board Cooperative Contract #676-22 with a newly awarded Buy Board Cooperative Contract #776-25 for Radiodetection, Pearpoint & Hathorn brand Sewer Inspection Equipment and Repair Services. Also, this amendment will add Sourcewell Cooperative Purchasing Network Contract #120721, which will allow for the purchases of Envirosight brand Sewer Inspection Equipment and Repair Services that are not currently offered on the Buy Board cooperative contract.

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.

Pricing obtained through the Sourcewell 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).

On January 28, 2020, City Council approved the interlocal agreement with Sourcewell (Ordinance 20-197).

On January 24, 2023, City Council approved a contract with Green Equipment Company, in the not-to-exceed amount of \$787,500.00 (Ordinance 23-168).

RECOMMENDATION

Award Amendment No. 1 with Core & Main LP, dba Green Equipment Company, to add Buy Board Cooperative Program Contract #776-25 for Radiodetection, Pearpoint & Hathorn Sewer Inspection Equipment and Repair, and Sourcewell Cooperative Purchasing Network Contract No. 120721 for EnviroSight Sewer Inspection Equipment and Repair for the Wastewater Collection Department.

PRINCIPAL PLACE OF BUSINESS

Core & Main LP, dba Green Equipment Company
Fort Worth, TX

ESTIMATED SCHEDULE OF PROJECT

The contract with Green Equipment Company is through January 23, 2028.

FISCAL INFORMATION

These services will be funded from Wastewater Collections operating budget. Requisitions will be entered on an as-needed basis. 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: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment 1

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

For information concerning this acquisition, contact: Casey Bowles, 940-349-8489.

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

ORDINANCE NO. 23-168

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH GREEN EQUIPMENT COMPANY, THROUGH THE BUY BOARD COOPERATIVE PURCHASING NETWORK CONTRACT # 676-22, FOR SEWER INSPECTION EQUIPMENT AND REPAIR FOR THE WASTEWATER COLLECTION DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8148 – AWARDED TO GREEN EQUIPMENT COMPANY, IN THE NOT-TO-EXCEED AMOUNT OF \$787,500.00).

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>
8148	Green Equipment Company	\$787,500.00

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 referenced herein; 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 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 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 Brian Beck and seconded by Jesse Davis. This ordinance was passed and approved by the following vote [6 - 0]:

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

PASSED AND APPROVED this the 24th day of January, 2023.


GERARD HUDSPETH, MAYOR

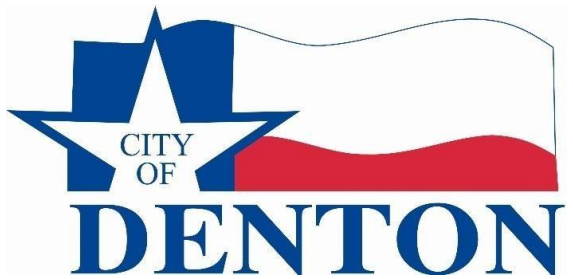
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: *Rosa Rios*

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*
Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o,
ou=City of Denton,
email=marcella.lunn@cityofden
ton.com, c=US
Date: 2022.12.16 16:45:24
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Docusign City Council Transmittal Coversheet

COOP	8148
File Name	SEWER INSPECTION EQUIPMENT AND REPAIR
Purchasing Contact	Crystal westbrook
City Council Target Date	JANUARY 24, 2023
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	23-168

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND GREEN EQUIPMENT COMPANY
(CONTRACT 8148)**

THIS CONTRACT is made and entered into this date 01/24/2023, by and between **Green Equipment Company** a TEXAS corporation, whose address is 2563 Gravel Dr., Fort Worth, TX 76118 hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products and/or services in accordance with the City's document **Buy Board #676-22 Sewer Inspections Equipment and Repair**, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) Buyboard Cooperative Purchasing Contract #676-22 with Green Equipment Company (**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 (**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

Contract # 8148

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

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

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

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

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

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

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

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

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

Contract # 8148

CONTRACTOR

DocuSigned by:
BY: Zane Smith
E1AA5AB28F604CE...
AUTHORIZED SIGNATURE

Printed Name: Zane Smith

Title: Vice President
817-589-2704

PHONE NUMBER
zanesmith@greenequipco.com

EMAIL ADDRESS
2022-966953

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

DocuSigned by:
BY: Sara Hensley
5236DB290270423...
SARA HENSLEY, CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

DocuSigned by:
BY: Rosa Rios
1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by:
Stephen D. Gay Stephen D. Gay
9EBFF5658E56482...
SIGNATURE PRINTED NAME

Director, Water Utilities
TITLE

Water Utilities
DEPARTMENT

Exhibit A

Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$787,500. Pricing shall be per Exhibit E attached.

2. The Quantities

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

3. Contract Terms

The contract term will be three (3) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) one-year periods.

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

4. Price Escalation and De-escalation

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

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

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

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

Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be

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

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

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

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

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

10. WORKFORCE

A. The Contractor shall employ only orderly and competent workers, 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 while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property .

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

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

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed

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

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

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

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

12. INVOICES:

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

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

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

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

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

The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

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

in Accounts Payable, whichever is later.

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

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

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

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

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

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

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

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

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

17. RIGHT TO AUDIT:

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

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

18. SUBCONTRACTORS:

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

Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

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

Contract, and shall contain provisions that:

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

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

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

19. WARRANTY-PRICE:

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

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

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

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

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions

in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

A. Recycled deliverables shall be clearly identified as such.

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

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

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

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

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

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

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

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor

shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

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

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

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

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

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written 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 Contract # 8148

City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

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

30. DELAYS:

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

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

31. INDEMNITY:

A. Definitions:

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

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

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

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

A. General Requirements:

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:
City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209
- vii. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any

reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

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

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

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

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

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

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

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

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

35. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

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

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

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

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by

the City, to the City upon request by the City.

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

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

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

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

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

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

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a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

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

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

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

46. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is

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supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

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

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

49. DISPUTE RESOLUTION:

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

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

50. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted

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in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

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

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

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

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

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

54. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

55. EQUAL OPPORTUNITY

A. Equal Employment Opportunity: No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this RFQ.

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

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

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

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

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

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

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

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

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

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

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

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

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

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

58. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or Contract # 8148

supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

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

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

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

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

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

64. FORCE MAJEURE: The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use Contract # 8148

commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

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

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

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

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

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

Exhibit D
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.

GREEN EQUIPMENT COMPANY

2563 GRAVEL DR. • FORT WORTH, TEXAS 76118 • Metro (817) 589-2704 • (817) 595-1226 • FAX (817) 284-1107

EXHIBIT E

August 9, 2022

City of Denton, Texas

Re: EnviroSight/Radiodetection/Pearpoint Equipment & Repair Services

To Whom It May Concern:

As your Sole Source Provider of Radiodetection, Pearpoint, and EnviroSight products Green Equipment Company is pleased to offer The City of Denton a discount of 3% off of published list price at the time of any order of the above referenced equipment.

We would also offer the following regarding repairs of the above listed products:

Labor for EnviroSight equipment repairs: \$100.00 per hour

Labor for Radiodetection and Pearpoint equipment repairs: \$85.00 per hour

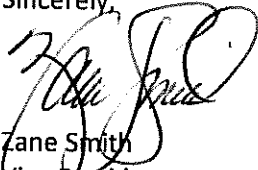
Parts will be charged at 3% off of published list price at the time of the order.

Green Equipment Company is an authorized repair center for Radiodetection, Pearpoint, and EnviroSight products and is a registered vendor under BuyBoard contract #676-22.

We look forward to serving your needs.

Please feel free to contact us with any questions regarding this matter.

Sincerely,



Zane Smith
Vice President

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.	
	GREEN EQUIPMENT COMPANY	
2	☒ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)	
3	Name of local government officer about whom the information in this section is being disclosed.	
Name of Officer		
Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary. A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor? ☐ Yes ☐ No B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity? ☐ Yes ☐ No C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more? ☐ Yes ☐ No D. Describe each employment or business and family relationship with the local government officer named in this section.		
4	☒ I have no Conflict of Interest to disclose.	
5	DocuSigned by: E1AA5AB28F804CE 12/16/2022 Date Signature of vendor doing business with the governmental entity	

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

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

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 4A869155E1564E0085070665A4490EA3

Status: Completed

Subject: Please DocuSign: City Council Contract 8148 Sewer Inspection Equipment and Repair

Source Envelope:

Document Pages: 29

Signatures: 6

Certificate Pages: 6

Initials: 1

AutoNav: Enabled

Enveloped Stamping: Enabled

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

Envelope Originator:

Crystal Westbrook

901B Texas Street

Denton, TX 76209

crystal.westbrook@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

12/9/2022 11:34:03 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)**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

Deputy City Attorney

City of Denton

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Zane Smith

zanesmith@greenequipco.com

Vice President

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

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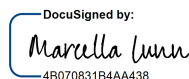
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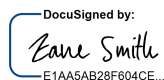
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Viewed: 12/16/2022 2:46:48 PM

Signed: 12/16/2022 2:48:47 PM

Signer Events	Signature	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

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

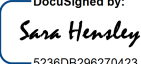
Rosa Rios
rosa.rios@cityofdenton.com
City Secretary
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

COPIED

Sent: 12/9/2022 11:41:56 AM

Carbon Copy Events	Status	Timestamp
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City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/25/2023 10:47:23 AM Viewed: 1/25/2023 10:57:42 AM
Casey Bowles casey.bowles@cityofdenton.com Water/Wastewater Field Operations Division Manager Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 1/24/2023 9:01:47 AM ID: 4b1960e5-4159-4dcd-8644-e7391657f113	COPIED	Sent: 1/25/2023 10:47:26 AM
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Certified Delivered	Security Checked	1/25/2023 10:47:00 AM
Signing Complete	Security Checked	1/25/2023 10:47:17 AM
Completed	Security Checked	1/25/2023 10:47:26 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND CORE & MAIN LP, DBA GREEN EQUIPMENT COMPANY, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JANUARY 24, 2023, IN THE NOT-TO-EXCEED AMOUNT OF \$787,500.00; SAID FIRST AMENDMENT TO ADD BUY BOARD COOPERATIVE PROGRAM CONTRACT NO. 776-25 FOR RADIODETECTION, PEARPOINT & HATHORN SEWER INSPECTION EQUIPMENT AND REPAIR, AND SOURCEWELL COOPERATIVE PURCHASING NETWORK CONTRACT NO. 120721 FOR ENVIROSIGHT SEWER INSPECTION EQUIPMENT AND REPAIR, AWARDED TO ENVIROSIGHT LLC, WITH CORE & MAIN LP, DBA GREEN EQUIPMENT COMPANY OPERATING AS AN AUTHORIZED DEALER, FOR THE WASTEWATER COLLECTION DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8148 – PROVIDING FOR AN AMENDMENT TO THE ORDINANCE TO ADD THE BUY BOARD COOPERATIVE PROGRAM CONTRACT NO. 776-25, AND SOURCEWELL COOPERATIVE PURCHASING NETWORK CONTRACT NO. 120721).

WHEREAS, on January 24, 2023, City Council awarded a contract to Core & Main LP, dba Green Equipment Company in the amount of \$787,500.00, for Sewer Inspection Equipment and Repair for the Wastewater Collection Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the City Council finds that the action taken herein is in the public interest; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, adding the cooperative contract from Buy Board Cooperative Program Contract # 776-25 and Sourcewell Cooperative Program Contract # 120721 to the agreement between the City and Core & Main LP, dba Green Equipment Company, which is on file in the office of the Purchasing Agent, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment referenced herein.

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

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

	Aye	Nay	Abstain	Absent
Mayor 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 _____, 2026.

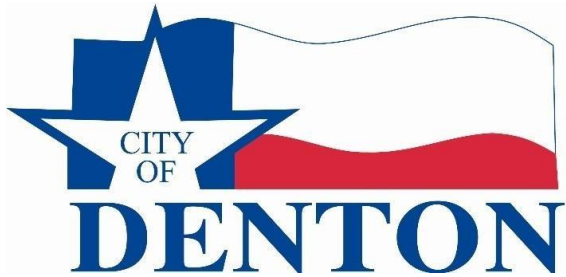
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

COOP	8148
File Name	Sewer Inspection Equipment and Repair Amendment #1
Purchasing Contact	Cori Power
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND CORE & MAIN LP, DBA GREEN EQUIPMENT COMPANY 8148

THIS FIRST AMENDMENT TO CONTRACT 8148 (this “Amendment”) by and between the City of Denton, Texas (“City”) and Core & Main LP, dba Green Equipment Company (“Contractor”) to that certain contract executed on January 24, 2023, in the original not-to-exceed amount of \$787,500 (the “Agreement”); for services related to the Sewer Inspection Equipment and Repair.

WHEREAS, Green Equipment Company was acquired by Core & Main LP, thus any reference to Green Equipment Company (“Contractor”) in the Agreement is replaced to Core & Main LP, dba Green Equipment Company (“Contractor”).

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

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

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

1. This Amendment modifies the Agreement by replacing Exhibit B of the Agreement to BuyBoard Cooperative Purchasing Contract #776-25 with Core & Main LP, dba Green Equipment Company and Sourcewell Cooperative Purchasing Network Contract #120721 awarded to Envirosight LLC, with Green Equipment Company operating as an authorized dealer (Exhibit “B” on file at the office of the Purchasing Agent).
2. The Amendment modifies the Agreement by replacing Exhibit E of the Agreement with the updated Contractor’s Proposal, as shown in Attachment A of this Amendment.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this date_____.

“CONTRACTOR”

**CORE & MAIN LP, DBA GREEN
EQUIPMENT COMPANY**

DocuSigned by:
By: Eane Smith Branch Manager
E1AA6A239F6040F
AUTHORIZED SIGNATURE, TITLE

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

Signed by:
Stephen D. Gay Stephen D. Gay
F1B4B897205419...
SIGNATURE PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

“CITY”

CITY OF DENTON

By: _____
AUTHORIZED SIGNATURE, TITLE

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

Attachment A

10/5/2025

City of Denton, Texas

Re: Envirosight/ Radiodetection/ Pearpoint/ & Hathorn Equipment

As your sole source provider of: Radiodetection, Hathorn, Pearpoint, & Envirosight Locating & inspection equipment. Green Equipment is pleased to offer the City of Denton a discount of 3% off published list price including any tariffs we're charged for at the time of any order of the above referenced equipment.

We would also like to offer the following for repairs of above listed items,

Labor for Envirosight Equipment repairs: 125.00 per hour

Labor for Radiodetection, Pearpoint & Hathorn: 115.00 per hour.

Parts will be charged at 3% off of published list price including any tariffs we're charged for at the time of the order.

Green Equipment is an authorized repair center for Radiodetection, Pearpoint & Hathorn products, and is a registered vendor under Buyboard Contract 776-25

Green is also a registered vendor under Sourcwell contract # 120721 for all Envirosight Products. Sourcwell doesn't provide a discount for parts and labor on their contract, but Green Equipment will honor the 5% discount for parts and labor pricing is fixed at \$125 per hour.

We look forward to serving your needs

Please feel free to contact us with any questions regarding this matter

Sincerely,

A handwritten signature in black ink, appearing to read 'Zane Smith', is written over a horizontal line.

Zane Smith

Certificate Of Completion

Envelope Id: 27A78D6B-AD9E-4CFF-A711-904782DB82DE

Status: Sent

Subject: Please DocuSign: City Council Contract 8148-Sewer Inspection Equipment and Repair Amendment #1

Source Envelope:

Document Pages: 4

Signatures: 3

Envelope Originator:

Certificate Pages: 6

Initials: 1

Cori Power

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

cori.power@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Cori Power

Location: DocuSign

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cori.power@cityofdenton.com

Signer Events

Signature

Timestamp

Cori Power

Completed

Sent: 11/21/2025 10:05:39 AM

cori.power@cityofdenton.com

Viewed: 11/21/2025 10:06:42 AM

Purchasing Supervisor

Signed: 11/21/2025 10:07:04 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication
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Electronic Record and Signature Disclosure:

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Lori Hewell



Sent: 11/21/2025 10:07:06 AM

lori.hewell@cityofdenton.com

Viewed: 11/21/2025 2:04:16 PM

Purchasing Manager

Signed: 11/21/2025 2:05:06 PM

City of Denton

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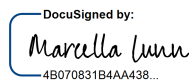
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Electronic Record and Signature Disclosure:

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Marcella Lunn



Sent: 11/21/2025 2:05:08 PM

marcella.lunn@cityofdenton.com

Viewed: 11/21/2025 11:23:44 PM

Senior Deputy City Attorney

Signed: 11/21/2025 11:25:39 PM

City of Denton

Signature Adoption: Pre-selected Style

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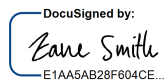
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Signed using mobile

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Zane Smith



Sent: 11/21/2025 11:25:41 PM

zanesmith@greenequipco.com

Viewed: 11/24/2025 9:00:13 AM

Branch Manager

Signed: 11/24/2025 9:00:51 AM

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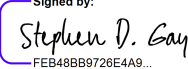
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Signer Events	Signature	Timestamp
Stephen D. Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None)	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 11/24/2025 9:00:53 AM Resent: 11/26/2025 11:58:59 AM Viewed: 11/26/2025 3:26:26 PM Signed: 11/26/2025 3:27:29 PM

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Cheyenne Defee
cheyenne.defee@cityofdenton.com
Procurement Administration Supervisor

Sent: 11/26/2025 3:27:33 PM

City of Denton
Security Level: Email, Account Authentication (None)

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Sara Hensley
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Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
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Ingrid rex
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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
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Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Cheyenne Defee
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Procurement Administration Supervisor
City of Denton
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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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Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Casey Bowles Casey.Bowles@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 11/25/2025 2:52:13 PM ID: d7698d5b-e50f-412a-9911-a1c0cd747868		
Jimmy Fougrousse jimmyfougrousse@greenequipco.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/21/2025 10:05:39 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Lockwood, Andrews & Newnam, Inc., for engineering services of the Robson West Lift Station for the Water Utilities Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8213-008 – Professional Services Agreement for engineering services awarded to Lockwood, Andrews & Newnam, Inc., in the not-to-exceed amount of \$2,545,098.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Denton is experiencing steady growth both within and near the Robson Ranch community. This increasing demand requires upgrading the City's wastewater infrastructure in the southwest area. The expected influent flows are projected to quickly surpass the capacity of the current treatment plant. Currently, the Robson Ranch Water Reclamation Plant (WRP) is authorized to discharge up to 0.375 million gallons per day (MGD). The plant was built over twenty years ago and has not undergone any expansion or improvement since its commissioning. In 2021, the City Council approved the Robson Ranch WRP Lift Station Conversion Project to reroute flows from the existing Robson WRP to Pecan Creek WRP. This plan involved converting the current plant into a localized lift station and upgrading the Robson Ranch East Lift Station to redirect influent flows. The Robson Ranch East Lift Station has been successfully upgraded and now pumps all flows from the eastern part of Robson Ranch to Pecan Creek WRP. After evaluating the constraints of converting the Robson Ranch WRP into a localized lift station and considering updated area growth projections, the Wastewater Master Plan recommends designing and constructing an expandable lift station capable of reliably serving not only Robson Ranch but also the southwest portion of our wastewater collection service area for many years, rather than converting the existing plant. The Robson Ranch WRP will be decommissioned after the new Robson West Lift Station is in service.

The Robson West Lift Station will be designed to support peak flow capacities expected from the planned west expansion of the Robson Ranch development and potential upstream capacity demands. The design will include conveyance pipelines capable of handling both current and future flow needs. The scope consists of connecting the conveyance pipeline with the planned Roark Branch Interceptor. All existing and future upstream flows will be managed centrally at the Pecan Creek Wastewater Reclamation Plant, which will act as a regional treatment facility.

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

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

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

RECOMMENDATION

Award a contract with Lockwood, Andrews & Newnam, Inc., for engineering services of the Robson West Lift Station for the Water Utilities Department, in the not-to-exceed amount of \$2,545,098.

PRINCIPAL PLACE OF BUSINESS

Lockwood, Andrews & Newnam, Inc.
Frisco, TX

SUSTAINABILITY MEASURES

The contract will provide the City of Denton with the full engineering design and easement acquisition necessary to permit the city to begin construction of the Robson West Lift Station. This new infrastructure will increase wastewater capacity in the southwest part of the City. The facilities are essential for safe treatment and discharge of effluent to the sensitive receiving streams.

ESTIMATED SCHEDULE OF PROJECT

The Robson West Lift Station project will begin design in February 2026. The construction plans are anticipated to be completed in September 2026.

FISCAL INFORMATION

These services will be funded from the bonds in the 5-year Capital Improvement Program, account # 640534545.1360.21100. Requisition #172036 has been entered into the Purchasing software system for \$2,545,098.

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 David Brown, (940) 349-8030.

Legal point of contact: Leah Bush 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 PROFESSIONAL SERVICES AGREEMENT WITH LOCKWOOD, ANDREWS & NEWNAM, INC., FOR ENGINEERING SERVICES OF THE ROBSON WEST LIFT STATION FOR THE WATER UTILITIES DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8213-008 – PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES AWARDED TO LOCKWOOD, ANDREWS & NEWNAM, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$2,545,098.00).

WHEREAS, on March 5, 2024, the City Council approved a pre-qualified engineer list for the Water and Wastewater Utilities Department (Ordinance 24-390), and the professional services provider (the “Provider”) mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

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

WHEREAS, the fees under the proposed contract are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees published by the professional associations applicable to the Provider’s profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is hereby authorized to enter into an agreement with Lockwood, Andrews & Newnam, Inc., for engineering services of the Robson West Lift Station for the Water Utilities Department, a copy of which is attached hereto and incorporated by reference herein.

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

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

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

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

The motion to approve this ordinance was made by _____ 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 _____, 2026.

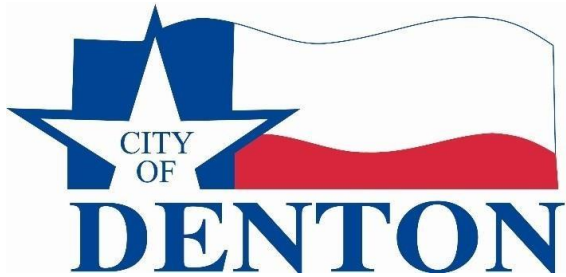
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

PSA	8213-008
File Name	Robson West Lift Station
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY" or "OWNER"), and Lockwood, Andrews & Newnam, Inc., with its corporate office at 3700 W. Sam Houston Pkwy., South, Ste. 400, Houston, TX 77042 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Robson West Lift Station, Force Main & Gravity Mains (the "PROJECT").

SECTION 1 **Scope of Services**

- A.** The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment A. These services shall be performed in connection with the PROJECT.
- B.** Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

SECTION 2 **Compensation and Term of Agreement**

- A.** The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed \$2,545,098 in the manner and in accordance with the fee schedule as set forth in Attachment B. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.
- B.** Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

SECTION 3 **Terms of Payment**

Payments to the ENGINEER will be made as follows:

A. Invoice and Payment

- (1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.
- (2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.
- (3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.
- (4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.
- (5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

SECTION 4 Obligations of the Engineer

A. General

The ENGINEER will serve as the CITY's professional engineering representative under this AGREEMENT, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

B. Standard of Care

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; No other warranty of any kind, expressed or implied, at common law or created by statute, is extended, made, or intended by the rendition of ENGINEER's services under this Agreement: and

- (2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

C. Subsurface Investigations

- (1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.
- (2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

D. Preparation of Engineering Drawings

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

E. Engineer's Personnel at Construction Site

- (1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the AGREEMENT Documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.
- (2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or

responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the AGREEMENT Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.

- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the AGREEMENT Documents.

F. Opinions of Probable Cost, Financial Considerations, and Schedules

- (1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.
- (2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

G. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials,

or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

H. Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

I. Right to Audit

- (1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.
- (2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.
- (3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

J. INSURANCE

(1) ENGINEER'S INSURANCE

- a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000.00 per each occurrence with a \$2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.
 - i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.
 - ii. ENGINEER waives all rights against the CITY and, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.
- b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of “any auto”, including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.
 - i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.
- c. Workers' Compensation – ENGINEER shall maintain workers compensation and employers liability insurance and, if necessary,

commercial umbrella liability insurance with a limit of not less than \$100,000.00 each accident for bodily injury by accident or \$100,000.00 each employee for bodily injury by disease, with \$500,000.00 policy limit.

- i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.
- d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of \$1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

(2) GENERAL INSURANCE REQUIREMENTS

- a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.
- b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.
- c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.
- d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.
- e. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.
- f. Insurers for all policies must be authorized to do business in the State of

Texas and have a minimum rating of A:V or greater, in the current A.M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management.

- g. Any deductible or self insured retention in excess of \$25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at its sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.
- h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.
- i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.
- j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.
- k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.
- l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.
- m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

K. Independent Consultant

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

L. Disclosure

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

M. Asbestos or Hazardous Substances

- (1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.
- (2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

N. Permitting Authorities - Design Changes

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this AGREEMENT was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this AGREEMENT which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

O. Schedule

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment A to this AGREEMENT.

P. Equal Opportunity

- (1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.
- (2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and

ENGINEER's agents shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

SECTION 5

Obligations of the City

A. City-Furnished Data

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

B. Access to Facilities and Property

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

C. Advertisements, Permits, and Access

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

D. Timely Review

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the PROJECT schedule prepared in accordance with Attachment A.

E. Prompt Notice

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

F. Asbestos or Hazardous Substances Release.

(1) CITY acknowledges ENGINEER will perform part of the work at CITY's

facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.

- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

G. Contractor Indemnification and Claims

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at Construction Site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

H. Contractor Claims and Third-Party Beneficiaries

- (1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."

- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

I. CITY's Insurance

- (1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.
- (2) The CITY may secure Builders Risk/Installation insurance at the replacement

cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

J. Litigation Assistance

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

K. Changes

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

SECTION 6 **General Legal Provisions**

A. Authorization to Proceed

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

B. Reuse of Project Documents

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents. Notwithstanding anything to the contrary contained herein, all previously owned intellectual property of the ENGINEER, including but not limited to any computer software, tools, systems, equipment or other information used by ENGINEER or its lower tier consultants, if any, in delivering the services hereunder, and any know-how, methodologies, or processes used by ENGINEER to provide the services to the City, including without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto shall remain the sole and exclusive property of the ENGINEER or its lower tier consultants.

C. Force Majeure

The ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the ENGINEER that prevent ENGINEER's performance of its obligations hereunder.

D. Termination

(1) This AGREEMENT may be terminated:

- a. by the City for its convenience upon 30 days' written notice to ENGINEER.
- b. by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

- a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;
- b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;
- c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

(3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all termination expenses. The CITY'S approval will be obtained in writing prior to proceeding with termination services.

E. Suspension, Delay, or Interruption to Work

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

F. Indemnification

IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, THE ENGINEER SHALL INDEMNIFY OR HOLD HARMLESS THE CITY AGAINST LIABILITY FOR ANY DAMAGE COMMITTED BY THE ENGINEER OR ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. CITY IS ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE ENGINEER'S LIABILITY.

In no event shall either Party be liable to the other Party for loss of profits, or for any special incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever.

G. Assignment

Neither party shall assign all or any part of this AGREEMENT without the prior written consent of the other party.

H. Jurisdiction

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Denton County, Texas.

I. Severability and Survival

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Sections 5.F., 6.B., 6.D., 6.F., 6.H., and 6.I. shall survive termination of this AGREEMENT for any cause.

J. Observe and Comply

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS OR LIABILITY ARISING OUT OF THE VIOLATION OF ANY SUCH ORDER, LAW, ORDINANCE, OR REGULATION,**

WHETHER IT BE BY ITSELF OR ITS EMPLOYEES.

K. Immigration Nationality Act

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

L. Prohibition on Contracts with Companies Boycotting Israel

Engineer acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

N. Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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

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

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

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

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

Q. Prohibition Against Personal Interest in Contracts

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 23-1165 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

R. Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at :
<https://www.ethics.state.tx.us/filinginfo/1295/>
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

S. Agreement Documents

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument. The following attachments and schedules are hereby made a part of

this AGREEMENT:

Attachment A - Scope of Services and Project Schedule

Attachment B - Compensation

These documents make up the AGREEMENT documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the AGREEMENT documents, the inconsistency or conflict shall be resolved by giving precedence first to the written AGREEMENT then to the AGREEMENT documents in the order in which they are listed above.

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

Duly executed by each party's designated representative to be effective on _____.

BY:
CITY OF DENTON, TEXAS

Sara Hensley, City Manager

BY:
ENGINEER
LOCKWOOD, ANDREWS & NEWNAM
INC.

DocuSigned by:
Justin Reeves Vice President
6CCE404BC62D4F6...
Authorized Agent, Title

Full Name: Justin Reeves

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

Signed by:
Stephen D Gay
FED40BB9726E4A9...
Signature

General Manager

Title

Water Utilities and Street Operations

Department

Date Signed: _____

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Signed by:
Leah Bush
2A930B00B5D7485...
BY: _____



Scope of Services

Robson West Lift Station, Force Main & Gravity Mains (Project)

Lockwood, Andrews & Newnam, Inc.

The Scope of Services set forth herein defines the work to be performed by Lockwood, Andrews & Newnam, Inc. (ENGINEER) for the Project. Both the City of Denton (OWNER) and ENGINEER have attempted to clearly define the work to be performed and address the needs of the Project. It is assumed that the OWNER will fund construction of this Project. The Project is generally shown in the exhibit attached to this scope of services.

Services include preliminary engineering (including alignment selection), ROW acquisitions, permitting, final design, bidding, and construction services for the 13MGD Robson West Lift Station to be located west of the existing Robson WRP; for an approximately 2-mile single or dual force main and an approximately 1.3-mile gravity main across a corridor of generally from the Robson West Lift Station eastward along Robson Crossing ROW to the OWNER's future Roark Branch Interceptor in Denton, Texas.

ENGINEER will independently contract with sub-consultants as appropriate/necessary to provide the services outlined below.

BASIC SERVICES

1.0 Project Management

1.1 Managing the Team

1.1.1 Project Planning: Develop project work plan and detailed resource plan.

1.1.2 Team Management: Lead, manage and direct design team activities. Communicate internally among team members and sub consultants. Task, schedule and allocate team resources.

1.1.3 Quality Assurance: Ensure quality control is practiced in performance of the work by both the design team and sub-consultants.

1.2 Communications and Reporting

1.2.1 Pre-Design Kickoff Meeting: Attend a pre-design project kickoff meeting or conference call with OWNER staff to confirm and clarify scope and to understand OWNER objectives and Project requirements. It is assumed that the OWNER will ensure that appropriate personnel from the engineering, inspection, and/or operations departments are present at the pre-design kickoff meeting.

1.2.2 OWNER Meetings: ENGINEER will arrange for and participate in meetings or conference calls with OWNER throughout the design phase with a formal discussion to exchange ideas, make critical decisions, or discuss preferences with operations staff. These meetings are generally intended to be conducted during the corridor study and alignment study. In addition to the formal meetings, ENGINEER will arrange for informal regular status update meetings (via conference call) with the OWNER's project manager on a bi-weekly basis.

1.2.3 Developer Coordination Meetings: Conduct coordination meetings or conference



calls with Robson Ranch, Hunter Ranch, and Cole Ranch (both formal and informal) to discuss alignments and easement acquisition of proposed pipeline. These meetings are generally intended to be conducted at project onset, during the alignment study, and during easement acquisition.

1.2.4 Permitting Entity Coordination Meetings: Conduct coordination meetings or conference calls with the permitting entities to determine permit constraints for the selected alignment and necessary variances. The anticipated meetings include meetings with TCEQ.

1.2.5 Utility Coordination

1.2.5.1 ENGINEER will prepare and maintain an updated utility contact list and will coordinate with the Utility Owners to provide the latest updates which include plans, exhibits, schedules and ROW information as necessary. ENGINEER will also work with the Utility Owners and the design team to plan for any test holes needed to verify utility horizontal or vertical alignments.

1.2.5.2 ENGINEER will hold utility meetings as needed, assuming there will be 2 group meetings with the utility owners and the design team.

1.2.6 Monthly Invoices: Prepare invoices and submit monthly.

1.2.7 Monthly Progress Reports: Prepare monthly progress reports through all phases of design.

1.2.8 Project Schedule: Prepare and submit a baseline Project Schedule at project kick-off and a Project Schedule updates with each invoice (approximately monthly).

1.3 Right-of-Entry: ENGINEER will prepare a list of landowners based on deed research ENGINEER understands that the OWNER may have contacts with the property owners on the Project, and ENGINEER will attempt direct contact with those contacts. If access cannot be obtained, then OWNER will be asked for assistance in obtaining rights-of-entry.

1.4 Funding Assistance

1.4.1 ENGINEER will assist OWNER in preparing applications and supporting documents for governmental grants, loans, or planning advances and providing data for detailed applications. It is anticipated that OWNER will pursue WIFIA and CWSRF funding.

1.5 Deliverables

1.5.1 Monthly milestone schedule updates

1.5.2 Pre-Design Kickoff Meeting Minutes

1.5.3 Owner Progress Meeting Minutes

1.5.4 Developer Coordination Meeting Minutes

1.5.5 Permitting Entity Coordination Meeting Minutes

1.5.6 Property Owner Meeting Minutes

1.5.7 Monthly Invoices



1.5.8 Monthly Progress Reports

1.5.9 Project Schedule and Updates

2.0 Lift Station

2.1 Preliminary Design (30%)

Preliminary Design shall be initiated after the Pre-Design Kickoff Meeting. The Preliminary Design shall be submitted to OWNER per the approved Project Schedule. Preliminary Design is intended to develop design concepts for OWNER review and comment or consent. During Preliminary Design, ENGINEER will advance the lift station design sufficient to include long lead-time items in a prepurchase package for OWNER procurement (see Bid Phase). ENGINEER will develop the preliminary design based on detailed tasks described herein.

2.1.1 Document Review: Review historical documents, property documents and other available documents to identify existing conditions, property status, and current/projected flows for the facility. Obtain and review analogous LS operational data from the OWNER.

2.1.2 Kickoff Meeting: Attend a project kick-off meeting with the City. Review findings and recommendations of aforementioned documentation, and discuss key design decisions, desired operational features, any additional items to be examined and/or considered as part of the Robson West LS project and obtain guidance to develop the project basis of design

2.1.3 Design Concept Review:

2.1.3.1 Conduct an internal design concept review (DCR) meeting that allows senior technical staff to share ideas to meet/exceed project objectives, verify fulfillment of project requirements and mitigate potential project risks.

2.1.3.2 Facilitate a design concept review meeting with the OWNER to discuss information identified during the internal DCR and solicit the OWNER's input to guide the project direction.

2.1.4 Basis of Design: Prepare the project Basis of Design using the information and input identified during DCR. The Basis of Design will identify the required design parameters and will be provided to the OWNER for review and concurrence. It will include the following:

2.1.4.1 Site access

2.1.4.2 Lift station type

2.1.4.3 Variable frequency drives (VFD's)

2.1.4.4 Odor control

2.1.4.5 Total capacity

2.1.4.6 Phasing, as applicable (proposed new and future lift station pumps; packages for pre-purchasing selected equipment to expedite schedule)

2.1.4.7 Recommended type of construction



- 2.1.4.8 Acceptable pump manufacturers
- 2.1.4.9 Power and service requirements
- 2.1.4.10 Emergency generator requirements
- 2.1.4.11 SCADA
- 2.1.4.12 Coordination with other consultants on adjacent projects that will impact Robson West lift station
- 2.1.5 Risk Assessment: Perform a project risk assessment to identify potential risks (including schedule delays) and develop mitigation strategies to address the risks.
- 2.1.6 Risk Assessment Workshop: Conduct a risk assessment workshop with the OWNER to ensure appropriate risks are included and mitigation strategies are consistent with the OWNER's desires.
- 2.1.7 Lift Station Hydraulic Evaluation: Perform an evaluation of the proposed Robson West LS, including hydraulics associated with the force main to identify potential issues with immediate and long-term capacity. The potential need and operation of single and dual force mains may be considered.
- 2.1.8 Sewershed Modeling: Perform an update to the OWNER's existing wastewater model for the Robson West LS sewer shed ((OWNER Sewershed designation) based on 20XX *Water and Wastewater Condition and Capacity Assessment Studies*) utilizing Bentley's SewerGEMs. This update will include the following:
 - 2.1.8.1 Coordinate with sewer shed modeling engineer on questions regarding the existing wastewater model
 - 2.1.8.2 Review and update OWNER's GIS to incorporate existing infrastructure within ((OWNER Sewershed designation) since the 20XX Studies
 - 2.1.8.3 Update existing wastewater flows since the 20XX Studies based on per capita flow of 90 gpcd
 - 2.1.8.4 Meet with OWNER to discuss future development within ((OWNER Sewershed designation) sewershed
 - 2.1.8.5 Update average and peak wastewater flows for 2026 and 2041 planning periods to incorporate future development
 - 2.1.8.6 Incorporate Projects 21 and 23 as noted in the 2016 Studies (Known future anticipated development)
 - 2.1.8.7 Perform modeling and provide recommendations on the Robson West LS current and future sizing requirements
 - 2.1.8.8 Meet with OWNER to discuss modeling results and recommendations
 - 2.1.8.9 Assumptions: Utilize the 5-year, 6-hour design storm peak flows and utilize a wet weather peaking factor of 4.0
- 2.1.9 Design Alternatives: Develop design alternatives to accomplish the project objectives/requirements and that incorporate the identified risk mitigation strategies.



- 2.1.10 Design Alternatives Meeting: Meet with the OWNER to present the design alternatives, receive OWNER input, identify OWNER preferences, and verify alternatives that will be further evaluated.
- 2.1.11 Preliminary Design Report: ENGINEER will prepare Preliminary Design Report (PDR) that includes the following:
 - 2.1.11.1 Existing site description, property boundaries, easements, gravity sewers, and force main locations.
 - 2.1.11.2 General site location map, identifying property, nearby roadways, developments, schools, and/or parks.
 - 2.1.11.3 Existing site plan showing the location of facilities, infrastructure, roads, fencing, etc.
 - 2.1.11.4 Operational data summary
 - 2.1.11.5 Lift Station hydraulics evaluation and sewershed modeling efforts summary, including all assumptions.
 - 2.1.11.6 Description of potential expansion and improvement alternatives
 - 2.1.11.7 Description of alternative evaluation procedures
 - 2.1.11.8 Description of alternatives evaluation results
 - 2.1.11.9 Description of the basis of design for proposed expansion and improvements
 - 2.1.11.10 Preliminary design drawings and exhibits of proposed expansion and improvements.
 - 2.1.11.11 Preliminary opinion of probable construction cost (OPCC) for recommended alternative.
 - 2.1.11.12 Quality Control (QC): Conduct internal Quality Control (QC) Draft PDR review document prior to submission to OWNER.
 - 2.1.11.13 Draft PDR Submittal: Submit Draft PDR to OWNER.
 - 2.1.11.14 Draft PDR Review Meeting: Meet with OWNER following completion/submittal of Draft PDR review to document OWNER comments and discuss/resolve any outstanding questions/issues.
 - 2.1.11.15 Draft PDR Revision: Revise Draft PDR document, as required, based on OWNER's review comments and/or review meeting discussions.
 - 2.1.11.16 Final PDR Submittal: Submit Final PDR to OWNER.
- 2.1.12 Prepare 30% Bid Specifications: Prepare summary of work and other technical specifications for use by Owner to procure CMAR.
- 2.1.13 Prepare 30% Bid Drawings: Prepare applicable bid drawings for use by Owner to procure CMAR.



2.2 Detailed Design (60%)

Upon approval of the Preliminary Design (30%) Documents, ENGINEER will prepare construction plans per the approved Project Schedule. ENGINEER will develop Detailed Design (60%) Documents based on detailed tasks described herein. The 60% submittal is intended to finalize the lift station design, including work associated with all general, civil, process/mechanical, structural, electrical, instrumentation, and control components, based on recommendations documented in Final PDR, develop specifications and details, and develop bid strategies.

- 2.2.1 Construction Drawings: Prepare applicable construction drawings, including drawings, sections, and details, for all design disciplines.
- 2.2.2 OWNER Specifications: ENGINEER will prepare required Front-End and technical specifications for the project. If an alternative bid strategy is recommended, ENGINEER will develop technical specifications and instructions to bidders matching the appropriate methodology.
- 2.2.3 Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare 60% OPCC.
- 2.2.4 Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the submittal and develop comments.
- 2.2.5 Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of additional information needed or discussion suggested.
- 2.2.6 CMAR Review Comments: Facilitate and attend comment resolution meeting with CMAR to discuss constructability and value engineering opportunities.
- 2.2.7 CMAR RFIs: Catalog and respond to CMAR requests for information throughout final design (Assume 5 RFIs).
- 2.2.8 Submittal Review: Catalog and respond to CMAR material submittals during design to facilitate accelerated construction timeline.
- 2.2.9 Deliverables
 - 2.2.9.1 60% Design Submittal
 - 2.2.9.2 60% Front-End and Technical Specifications
 - 2.2.9.3 60% Design OPCC

2.3 Pre-Final Design (90%)

Upon approval of the Detailed Design (60%) Documents, ENGINEER will prepare Pre-Final (90%) Construction Documents per the approved Project Schedule for final review and comment by the OWNER. ENGINEER will develop 90% Construction Documents based on detailed tasks described herein.

- 2.3.1 90% Construction Drawings: ENGINEER will prepare construction drawings for the lift station consisting of all elements identified in the Detailed Design (60%)



Documents and will address all previously received OWNER comments.

2.3.2 90% Specifications: ENGINEER will update required Front-End and technical specifications for the project consistent of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.

2.3.3 OPCC: ENGINEER will prepare 90% OPCC.

2.3.4 Review Comments: OWNER will consolidate 90% submittal review comments and provide to ENGINEER.

2.3.5 Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the 90% submittal and develop comments.

2.3.6 CMAR Review Comments: Facilitate and attend comment resolution meeting with CMAR to discuss constructability and value engineering opportunities.

2.3.7 Deliverables (1 electronic file of all items listed below)

2.3.7.1 90% Design Submittal

2.3.7.2 90% Front-End and Technical Specifications

2.3.7.3 90% Design OPCC

2.4 Final Design (100%) Bid Documents

Upon approval of the Pre-Final Design (90%) Documents, ENGINEER will prepare 100% Bid Documents per the approved Project Schedule for advertisement to the OWNER. ENGINEER will develop 100% Bid Documents based on detailed tasks described herein.

2.4.1 100% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.

2.4.2 100% Specifications: ENGINEER will finalize required Front-End and technical specifications for the project consistent of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.

2.4.3 OPCC: ENGINEER will prepare 100% OPCC.

2.4.4 Deliverables (1 electronic file version of all items listed below)

2.4.4.1 100% Design Submittal

2.4.4.2 100% Front-End and Technical Specifications

2.4.4.3 100% Design OPCC

3.0 Force Main and Gravity Mains

3.1 Preliminary Design (30%)

Preliminary Design shall be initiated after the Pre-Design Kickoff Meeting

The Preliminary Design shall be submitted to OWNER per the approved Project Schedule.



Preliminary Design is intended to evaluate, recommend, and obtain OWNER approval of alignment alternatives, and develop along the determined alignment the design concepts for OWNER review and comment or consent. Preliminary Design establishes plan and profile of the proposed pipeline constituting 30 percent completion of construction documents. ENGINEER will coordinate with other consultants on adjacent projects that will impact the force main and gravity mains. ENGINEER will develop the preliminary design based on detailed tasks described herein.

- 3.1.1 Pipeline Alignment Study: The pipeline alignment study will be completed in a technical memo establishing criteria, comparing alternatives, and making recommendations based on the description written in this section. The technical memorandum will serve as the Preliminary Design Report for this component of the Project. The Alignment Study will include the following:
 - 3.1.1.1 Project Alternatives Mapping: ENGINEER will develop alternatives by mapping available data for environmentally sensitive areas, topographic features, available parcel data, NCTCOG available data including digital ortho, aerial mapping and other significant alignment information on color aerial, NCTCOG topo or another appropriate base map. ENGINEER will overlay up to four (4) alternative alignments on the project corridor mapping. These maps are anticipated to be a roll plot style presentation at a scale of approximately 1" = 1,000'. The scale may be adjusted during development for accuracy or readability purposes if necessary.
 - 3.1.1.2 ENGINEER will conduct site visits (staying within public right-of-way) to evaluate alignment alternatives.
 - 3.1.1.3 Easements and Public Impacts: ENGINEER will identify the easement sizing (permanent and temporary) and prepare a list of probable easement requests stating landowners and size for the alternate alignments. This will consider the proposed developments within the alignment.
 - 3.1.1.4 Alignment Selection: ENGINEER will create a report comparing the alignments evaluated, easements, and hydraulics. The memorandum will include a recommendation for the alignment to advance to survey.
 - 3.1.1.5 Pipeline Materials: ENGINEER will identify alternate materials available for the proposed pipeline corridor and recommend up to three (3) materials for design and bidding for OWNER approval. This is anticipated to include FRP, PVC, and HDPE, depending on size.
- 3.1.2 Drawings Preparation: ENGINEER will create plan view background drawings along the selected alignment using the latest available aerial imagery from Nearmap. ENGINEER will provide sketches and drawings showing the final horizontal plan view alignment and preliminary profile views (based on surveyed topography) of the approved pipeline alignment. These maps are anticipated to be a roll plot style presentation in a scale of approximately 1" = 40'.
- 3.1.3 Specification Preparation: ENGINEER will obtain OWNER furnished front-end documents. ENGINEER will prepare and submit preliminary technical specifications



table of contents for the anticipated project manual along for review by the OWNER.

- 3.1.4 Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare a preliminary OPCC.
- 3.1.5 Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of disagreement.
- 3.1.6 Constructability Review: ENGINEER will conduct a field Constructability Review, with representatives of OWNER, to walk the project and identify construction and/or design challenges. ENGINEER will summarize the OWNER's comments from the field visit and submit this information to the OWNER in writing.
- 3.1.7 Deliverables
 - 3.1.7.1 Preliminary Design Report
 - 3.1.7.2 30% Design Submittal
 - 3.1.7.3 Easement Sheets
 - 3.1.7.4 30% Specifications Table of Contents
 - 3.1.7.5 30% Design OPCC
 - 3.1.7.6 Constructability Review Minutes

3.2 Detailed Design (60%)

Upon approval of the Preliminary Design (30%) Documents, ENGINEER will prepare construction plans per the approved Project Schedule. ENGINEER will develop Detailed Design (60%) Documents based on detailed tasks described herein. ENGINEER will coordinate with other consultants on adjacent projects that will impact the force main and gravity mains. The 60% submittal is intended to finalize the vertical alignment, show concepts of traffic control, develop specifications and details, and develop bid strategies.

- 3.2.1 Construction Drawings: ENGINEER will prepare construction drawings for the pipelines that will generally include:
 - 3.2.1.1 Cover Sheet
 - 3.2.1.2 Overall Sheet Layout
 - 3.2.1.3 Overall Hydraulic Profile
 - 3.2.1.4 Easement Sheets
 - 3.2.1.5 General Notes Sheets
 - 3.2.1.6 Plan and Profile Drawings
 - 3.2.1.7 General Details:
 - 3.2.1.8 Tunnel Design and Special Details:
 - 3.2.1.9 Erosion Control Plans and Details
 - 3.2.1.10 Traffic Control Plans and Details



3.2.1.11 Interconnection Concept Design

3.2.2 OWNER Specifications: ENGINEER will prepare required Front-End and technical specifications for the project. If an alternative bid strategy is recommended, ENGINEER will develop technical specifications and instructions to bidders matching the appropriate methodology.

3.2.3 Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare 60% OPCC.

3.2.4 Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the submittal and develop comments.

3.2.5 Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of additional information needed or discussion suggested.

3.2.6 Deliverables

3.2.6.1 60% Design Submittal

3.2.6.2 60% Front-End and Technical Specifications

3.2.6.3 60% Design OPCC

3.3 Pre-Final Design (90%)

Upon approval of the Detailed Design (60%) Documents, ENGINEER will prepare Pre-Final (90%) Construction Documents per the approved Project Schedule for final review and comment by the OWNER. ENGINEER will coordinate with other consultants on adjacent projects that will impact the force main and gravity mains. ENGINEER will develop 90% Construction Documents based on detailed tasks described herein.

3.3.1 90% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.

3.3.2 90% Specifications: ENGINEER will update required Front-End and technical specifications for the project consistent of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.

3.3.3 OPCC: ENGINEER will prepare 90% OPCC.

3.3.4 Review Comments: OWNER will consolidate 90% submittal review comments and provide to ENGINEER.

3.3.5 Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the 90% submittal and develop comments.

3.3.6 Deliverables (1 electronic file version of all items listed below)

3.3.6.1 90% Design Submittal

3.3.6.2 90% Front-End and Technical Specifications



3.3.6.3 90% Design OPCC

3.4 Final Design (100%) Bid Documents

Upon approval of the Pre-Final Design (90%) Documents, ENGINEER will prepare 100% Bid Documents per the approved Project Schedule for advertisement to the OWNER. ENGINEER will develop 100% Bid Documents based on detailed tasks described herein.

3.4.1 100% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.

3.4.2 100% Specifications: ENGINEER will finalize required Front-End and technical specifications for the project consistent of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.

3.4.3 OPCC: ENGINEER will prepare 100% OPCC.

3.4.4 Deliverables (1 electronic file version of all items listed below)

3.4.4.1 100% Design Submittal

3.4.4.2 100% Front-End and Technical Specifications

3.4.4.3 100% Design OPCC

4.0 Bid Phase Services

ENGINEER will provide support for up three (3) bid events associated with the project. The bid packages anticipated are a Prepurchase Package (OWNER procurement), the Lift Station package, and the Force Main & Gravity Main package.

4.1 Prepurchase Package

The purpose of the prepurchase package is to allow the OWNER to procure long lead-time items that would affect project delivery schedule if otherwise bid as part of the final design package. The long lead-time items will be identified during Preliminary Design and confirmed with the OWNER.

4.1.1 Technical Specifications: Prepare applicable technical specifications (Divisions 1 – 46) and technical data sheets (Division 11 only) using LAN-standard technical specification documents needed for prepurchase of selected equipment.

4.1.2 Front End Specifications: Prepare contract documents (Division 0, including Bid Form) using OWNER-provided standard contract documentation. NOTE: OWNER to provide Division 0 Specifications related to the bidding for revisions in coordination with Legal.

Services for the Lift Station and Force Main & Gravity Mains bid packages will include the following for each:

4.2 Invitation to Bid: ENGINEER to coordinate bid letting date, time, and place with OWNER and prepare final invitation to Bid. ENGINEER to assist and advise OWNER in placing advertisements of the Invitation to Bid.



4.3 Pre-Bid Conference: ENGINEER to assist the OWNER at one (1) pre-bid conference.

4.4 Addenda: ENGINEER to respond to questions presented during the bid phase in the form of addenda to the construction contract documents when required and agreed upon with the OWNER.

4.5 Bid Tabulation and Review: ENGINEER to assist OWNER during bid opening, making a preliminary tabulation of bids and reviewing questionnaires and bids for completeness. ENGINEER to review and evaluate qualifications of the apparent successful bidder and the proposed major or specialty subcontractors. Review and evaluation will include such factors as work previously completed, equipment that is available for the work, publicly available financial resources, technical experience, and responses from references. ENGINEER to prepare and distribute formal bid tabulation sheets, evaluate bids, and make written recommendations to OWNER concerning contract award.

4.6 Conformed Documents: ENGINEER to prepare and distribute Conformed Documents, incorporating all addenda. Conformed specifications will include review of contractor's bonds, furnishing to the Contractor unsigned construction contract documents, and transmitting the construction contract documents to OWNER for signature and distribution.

4.7 Deliverables (1 electronic version of all items listed below)

4.7.1 Invitation to Bid

4.7.2 Plan Holders List

4.7.3 Bid Tabulation

4.7.4 Recommendation of Award

4.7.5 Conformed Drawings

4.7.6 Conformed Specifications



SPECIAL SERVICES

5.0 Right-Of-Way Services (LAN as “Acquisition Provider”)

Acquisition Provider will provide right-of-way acquisition services to secure easements along the pipeline alignment. Upon review of the proposed corridor and the County appraisal district maps, it is anticipated that there are up to three (3) property owners. ROW acquisition services shall be as follows:

5.1 Project Administration Services

5.1.1 Negotiation of the Scope of Services for each Work Authorization

5.1.1.1 Acquisition Provider shall visit project site.

5.1.2 Communication

5.1.2.1 Project Kick-Off Meeting: Acquisition Provider shall:

5.1.2.1.1 Attend preliminary kick-off meeting with City of Denton regarding the Project to discuss project.

5.1.2.1.2 Acquisition Provider will provide a monthly status update on an excel spreadsheet that is approved by City of Denton and Acquisition provider.

5.1.2.1.3 Discuss project requirements and delineation of Acquisition Provider responsibilities.

5.1.2.1.4 Discuss individual parcels and their relations to the project as a whole.

5.1.2.1.5 Provide a project plan of action and schedule to the City of Denton that outlines the scope as discussed.

5.1.2.2 Acquisition Provider shall prepare and deliver one monthly invoice for each active Work Authorization to City of Denton.

5.1.2.3 Acquisition Provider shall prepare initial property owner contact list and prepare and distribute City of Denton’s Acquisition Provider introduction letters.

5.1.2.4 Acquisition Provider Project Manager shall attend one monthly status meeting with appropriate City of Denton staff. In addition, additional LAN staff may attend subject to LAN PM direction.

5.1.2.5 Acquisition Provider shall provide a monthly written report to City of Denton on the status of service tasks completed and service tasks remaining in order to bring each parcel into possession of the City of Denton.

5.1.3 File Management

5.1.3.1 Develop required forms and templates as directed by City of Denton. Acquisition provider will provide draft forms to City of Denton for review. City of Denton will review forms and templates within 14 days and provide written approval for use.

5.1.3.2 Electronic parcel files will be provided to City of Denton. Acquisition Provider shall maintain working files in the Acquisition Provider’s office.



Acquisition Provider shall electronically submit all documents generated or received by the Acquisition Provider to the City of Denton. Upon closing of parcel, Acquisition Provider shall transfer to the City of Denton all remaining documents not previously submitted. Acquisition Provider shall submit to City of Denton documents required to be hard copies as generated by title company closings.

5.1.3.3 Acquisition Provider shall maintain records of all payments including, but not limited to, check number, amount, and date paid.

5.1.3.4 Acquisition Provider shall maintain copies of all correspondence and contacts with property owners.

5.1.4 Schedule

5.1.4.1 Acquisition Services will be conducted from the date the project Notice to Proceed is received not to exceed a 12-month duration. If the schedule extends beyond 12 months due to unforeseen project delays, additional months of Project Administration fees will be required. 12-month schedule assumes survey is complete. If the design changes the proposed ROW, the schedule will need to be modified. Acquisition Provider will obtain City of Denton approval before incurring additional expenses outside of this contract.

5.2 Appraisal Services – Service Requirements

Acquisition Provider shall select and use only Appraisers from the list of City of Denton Certified Appraisers. All appraisal services must comply with the Uniform Standards of Professional Appraisal Practice (“USPAP”) and Texas Law.

5.2.1 Real Estate Appraisal Services

5.2.1.1 Appraisers will provide advance notice of the date and time of their appraisal inspections of the subject property to the Acquisition Provider Project Manager and the City of Denton Project Manager in order to coordinate the Appraiser’s inspection (if applicable and practical).

5.2.1.1.1 Acquisition Provider shall prepare and conduct pre-appraisal contact with interest owners or their designated representative for each parcel and offer opportunity to accompany the Appraiser on the inspection of the subject property. The written contact documents must use acceptable City of Denton forms and the records of contact must be part of the parcel file.

5.2.1.1.2 With the information from the Acquisition Provider, the Appraiser will secure permission from the owner to enter the property from which real estate or property interest is to be acquired. If after diligent effort the Appraiser is unable to secure the necessary permission from the property owner, a written waiver must be obtained from the City of Denton. The permission or written waiver must be incorporated into the appraisal reports.

5.2.2 The assignment for an initial and update appraisal are two separate and distinct appraisal assignments.



5.2.3 For an initial appraisal assignment, the Appraiser will prepare an appraisal report for each parcel to be acquired utilizing applicable City of Denton forms. These reports will conform to City of Denton policies and procedures along with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation.

5.2.4 For an updated appraisal, the Appraiser will prepare an updated appraisal report for each parcel to be acquired utilizing applicable City of Denton forms. These reports will conform to City of Denton policies and procedures along with the Uniform Standards of Professional Appraisal Practice.

5.2.5 As necessary, Acquisition Provider shall prepare written notification to City of Denton of any environmental concerns associated with the right of way to be acquired, which may require environmental remediation.

5.2.6 Acquisition Provider will review appraisal reports for completeness and consistency of methodology across the project.

5.2.7 Acquisition Provider will provide appraisals to City of Denton for administrative review and recommendation for approval. City of Denton review and approval shall not exceed 14 days.

5.3 Negotiation Services

5.3.1 Acquisition Provider shall analyze preliminary Title Commitment report to determine potential title problems, propose and inform City of Denton of methods to cure title deficiencies.

5.3.2 Acquisition Provider shall secure Title Commitment updates in accordance with insurance rules and requirements for parcel payment submissions.

5.3.3 Acquisition Provider shall analyze appraisal reports and confirm the City of Denton's approved value prior to making an offer for each parcel.

5.3.4 Acquisition Provider shall prepare and send informational letter to each landowner describing the project and its impact upon the landowner's property and transmitting the Landowners' Bill of Rights by Certified Mail-Return Receipt Requested (CMRRR).

5.3.5 Acquisition Provider shall issue property description to the property owner.

5.3.6 Acquisition Provider shall prepare all documents required or requested by the City of Denton on applicable City of Denton forms. (i.e.; the initial offer letter, memorandum of agreement, instruments of conveyance)

5.3.7 Acquisition Provider shall follow up on initial contact with a phone call to try to schedule a face-to-face meeting with the landowner. Acquisition Provider shall send the written offer, appraisal report and required brochures to each property owner or the property owner's designated representative through CMRRR; maintain coordination of all closing activities, including but not limited to following-up on contacts and securing the necessary instruments upon acceptance of the City of Denton's offer; and retain copies of the unsigned CMRRR receipt and the appraisal



as support for billing purposes.

- 5.3.8 Acquisition Provider shall meet in person when practical and negotiate in “Good Faith” with the landowner to work out and obtain in an agreement and compensation that is beneficial to the owner and City of Denton.
- 5.3.9 The offer period will expire 30 days after the offer is received. Owner will agree to the offer amount or provide a written counteroffer within 30 days. If neither occurs, Acquisition Provider shall send a final offer letter by CMRRR upon authorization of City of Denton. If settlement is not reached after 30 days from receipt of final offer, Acquisition provider will forward file to City of Denton for condemnation services.
- 5.3.10 Acquisition Provider shall respond to property owner inquiries as received verbally and in writing within two business days.
- 5.3.11 Acquisition Provider shall prepare a separate negotiator contact report for each parcel, per contact, on applicable City of Denton forms.
- 5.3.12 The curative services necessary to provide a clear title to the City of Denton are the responsibility of the Acquisition Provider and thus are part of the Acquisition Provider’s fee for Negotiation Services. Curative services do not include costs and expenses that qualify as payment of incidental expenses to transfer real property or property interest to the City of Denton. Incidental expenses not paid to the title company are reimbursed as a pass-through cost.
- 5.3.13 Acquisition Provider shall have direct contact with the title company to obtain an updated Title Commitment along with other forms and certified copies of the instrument of conveyance necessary when requesting the parcel payment through City of Denton. All original documents generated or received by the Acquisition Provider must be delivered to City of Denton. Copies or working file documents must be kept by the Acquisition Provider. Acquisition Provider shall maintain parcel files of original documentation related to the purchase of the real property or property interests.
- 5.3.14 Acquisition Provider shall provide closing services in conjunction with the title company and may be required to attend closings. In the event of a closing by mail, title work must be reviewed prior to the closing by mail and again prior to recording of the instrument.
- 5.3.15 Acquisition Provider shall record all original instruments immediately after closing at the respective county clerk’s office.
- 5.3.16 Acquisition Provider shall advise property owner of the administrative settlement process, assist them with the preparation of a counteroffer package, and shall transmit to City of Denton any written counteroffer from property owners including applicable City of Denton forms, supporting documentation and written comments with regard to Administrative Settlements in accordance with City of Denton policy and procedures.
- 5.3.17 Acquisition Provider shall secure title insurance for all parcels acquired, insuring acceptable title to the City of Denton. Written approval by the City of Denton is



required for any exception. There should be no charges at this point, but if there are charges (such as abstractor's fees) these costs are reimbursed as a pass-through cost.

5.3.18 Acquisition Provider shall appear and provide Expert Witness testimony as required.

5.3.19 Obtain Tax Certificates from designated personnel when applicable.

5.3.20 Deduct prorated taxes in the final compensation amount, when applicable.

5.3.21 Securing Possession and Use Agreement for waterline purposes with Additional Payment of Independent Consideration (PUAIC) is part of general Negotiation Services. Upon City of Denton approval (case by case basis) and direction, Acquisition Provider shall explain and provide the opportunity for the property owner to execute a PUAIC in accordance with City of Denton policy and procedures.

5.3.22 After the 30 day offer period, when "Good Faith" negotiations fail after at least two face-to-face meetings or documented attempts and reasonable effort and correspondence with the landowner, the consultant will provide evidence of negotiations and correspondence and meet with the City of Denton to discuss further action.

5.3.23 Acquisition Provider shall prepare the final offer letter and mail the documents of conveyance by CMRRR.

5.3.24 The Acquisition Provider shall, upon receipt of a copy of the final offer, request an updated Title Commitment for Eminent Domain from the title company.

5.3.25 Acquisition Provider shall prepare, if applicable, Bisection, Drainage Easement, Access Easement, and Temporary Construction Easement clauses for the original set of Legal Descriptions supplied by the City of Denton.

5.3.26 The Acquisition Provider shall use the information from the Title Commitment and other sources to join all interested parties on the request for eminent domain proceedings. Spouses of owners must be joined.

5.3.27 Upon completion of the request for eminent domain proceedings by the Acquisition Provider, the Acquisition Provider shall prepare a packet containing all documents listed in the eminent domain package submission checklist. Submit packet to the City of Denton for submission to the City of Denton attorney.

5.4 Real Estate Appraisal Review Services

Review appraisal services may be required if federal funding is utilized on the project.

5.4.1 Review Appraiser must review all appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached, compliance with City of Denton policies and procedures and the USPAP.

5.4.2 Review Appraiser must prepare and submit applicable City of Denton forms for each appraisal review assignment.

5.4.3 The assignment for the review of an initial and update appraisal are two separate



and distinct appraisal review assignments. The fee for each review assignment must be reflective of the complexity of the specific individual review assignment.

5.5 Real Estate Appraisal Preparation and Testimony Services

5.5.1 Beyond delivery of the appraisal assignments, the Appraiser will attend and provide preparation and testimony for a Special Commissioners Hearing (“Hearing”).

5.6 Advanced Negotiation

5.6.1 Upon request by City of Denton, negotiate beyond the initial 60-day negotiation period for an additional 60 days without entering preliminary condemnation phase.

5.6.2 Respond to property owner inquiries verbally and in writing within two business days.

5.6.3 Prepare a contact log for each parcel, detailing each contact, on applicable City of Denton forms.

5.6.4 Obtain City of Denton concurrence for each 60-day advanced negotiation period. This will be added as an amendment to the original authorization and is performed on a per parcel basis.

5.7 Condemnation Support Services

5.7.1 The City of Denton Attorney files the petition and related documents. Prior to filing the petition, the City of Denton Attorney coordinates with the Acquisition Provider. The Acquisition Provider is then responsible to file the lis pendens within the legal timeline.

5.7.2 Acquisition Provider shall record the lis pendens upon receipt of the cause number with the county clerk’s office.

5.7.3 Acquisition Provider shall send a copy of the filed lis pendens and the petition via CMRRR to all named parties within three days of the filing of the lis pendens.

5.7.4 Acquisition Provider shall send a copy of the condemnation petition to the title company and request an updated Title Commitment. The title company must confirm the appropriate parties were named in the petition and that no changes in title have occurred.

5.7.5 Following appointment of Special Commissioners (“Commissioners”) by the judge, the Acquisition Provider shall send via CMRRR the document appointing the Commissioners to the named defendants or their attorneys if represented. The Acquisition Provider shall secure the following documents:

5.7.5.1 Oath of Commissioners signed by the Commissioners;

5.7.5.2 Order Setting the Hearing; and

5.7.5.3 Two copies of the Notice of Hearing signed by the Commissioners.

NOTE: Notification to the City of Denton Attorney may be sent via CMRRR or email.



- 5.7.6 If e-filing is not required: Acquisition Provider shall file all originals with the court and send copies marked “copy” to City of Denton Attorney within three days after filing.
- 5.7.7 The Acquisition Provider shall coordinate the date and time for the Hearing. If there is an increase in value to the appraisal, the Acquisition Provider shall send a copy of the updated appraisal along with the post-petition letter to the appropriate parties by CMRRR.
- 5.7.8 Acquisition Provider shall coordinate with City of Denton Attorney to reserve a location for Hearings.
- 5.7.9 Acquisition Provider shall coordinate the Hearing date with the City of Denton Attorney, Appraiser, Engineer, appropriate City of Denton witnesses, three Commissioners, and a court reporter. Reasonable effort must be made to accommodate the property owner and their representatives.
- 5.7.10 Acquisition Provider shall coordinate a pre-hearing conference prior to the Hearing (the day before or earlier) to discuss facts of the case with the City of Denton Attorney, Appraiser, City of Denton, Engineer, and appropriate City of Denton witnesses.
- 5.7.11 After the Hearing is set, the Acquisition Provider shall serve Notices of Hearing to the indicated parties in accordance with the methods and time frames set out in Chapter 21 of the Texas Property Code but in no instance less than twenty days prior to the Hearing. If it is necessary to join a federal agency, be advised that they have an additional sixty days after service of the Hearing to prepare. The scheduling of the Hearing must allow for any additional time or any other additional time frame required by law.
- 5.7.12 Once the notices have been served, if e-filing is not required, file the original notices with the court and send copies marked “copy” to City of Denton Attorney.
- NOTE: If e-filing is required, the Acquisition Provider shall send served notices to the City of Denton for e-filing.
- 5.7.13 Acquisition Provider shall send a reminder, via CMRRR or email, 2-3 weeks in advance to the City of Denton Attorney, Appraiser, three Commissioners, court reporter, and City of Denton concerning Hearing dates.
- 5.7.14 Acquisition Provider shall prepare Hearing data sheet and Commissioners’ time sheets and submit to the City of Denton Attorney within two business days of the award being signed.
- 5.7.14.1 If required, Acquisition Provider shall file timesheets with the award. The Judge determines the amount paid to the Commissioners.
- 5.7.14.2 Acquisition Provider shall complete an Application for Texas Identification Number for all Commissioners and Court Reporters.
- 5.7.15 If e-filing is not required, the Acquisition Provider shall obtain the signatures of Commissioners on four duplicate originals of the Award of Commissioners and file



one with the court for the judge's signature within 48 hours of the Hearing. The Acquisition Provider shall have court clerk file-mark the four duplicate originals and retain three.

5.7.16 Acquisition Provider shall obtain and distribute three signed and file-marked copies of the Award as follows:

5.7.16.1 One file-marked copy to the title company with a request for a commitment.

5.7.16.2 One file-marked copy to the City of Denton Attorney.

5.7.17 One file-marked copy (or certified copy) to the City of Denton with the previously obtained Commitment to request submission for each Commissioner's fee

5.7.18 Acquisition Provider shall send the Commitment and the file-marked award to City of Denton which then prepares the payment submission for each Commissioner's fee.

5.7.19 Acquisition Provider shall deposit City of Denton warrant in the registry of the court. File a Notice of Deposit with the court and send certified copies to each defendant notifying them of the date of the deposit. NOTE: The Date of Deposit is the Date of Possession.

5.7.20 Acquisition Provider shall take photographs of the interest to be acquired on the day of deposit (or the day of a PUAIC closing) for relocation verification and date of take appraisal purposes. If a date of take Appraiser has been selected by the City of Denton, the Acquisition Provider shall notify the Appraiser of the date the deposit is going to be made so that the Appraiser may take date of take photographs as well.

5.7.21 Acquisition Provider shall send written notices of the date of deposit to City of Denton and all interested parties.

5.7.22 Acquisition Provider and any sub-providers must appear as Expert Witness when requested.

5.7.23 Maintain an electronic copy of the condemned parcel information. In an event of a judgment/award, Acquisition Provider shall coordinate with City of Denton's right of way coordinator to obtain copies of all executed post hearing documents for the condemned parcel. (award, JAO, deposit letter).

5.7.24 If a settlement is agreed upon by both parties prior to condemnation, Acquisition Provider shall coordinate with the City of Denton's Attorney to complete all necessary procedures to close the file.

5.8 Relocation Assistance Services for Personal Property

5.8.1 If the City of Denton directs the Acquisition Provider to cease all Contract services and terminate a Work Authorization through no fault of the Acquisition Provider, Acquisition Provider shall work with City of Denton to determine if each relocation is to proceed or letters rescinding relocation benefits are to be sent. If benefits are rescinded, payment for the milestone currently being worked on will be payable in full upon submittal of the complete file to that point.



- 5.8.2 Complete relocation files must include a copy of the letter rescinding benefits and all documentation and contact logs capturing communications with the Displacee and complete documentation for any claims payable up to the time the Displacee is notified of their ineligibility for further relocation assistance.
- 5.8.3 Acquisition Provider shall provide advance notice of the date and time of the initial meeting with the Displacee regarding the Appraiser's and Relocation Agent's inspection of the subject property.
- 5.8.4 Acquisition Provider shall notify all City of Denton approved Displacees of eligibility for relocation assistance. At the time of initial contact, the Acquisition Provider shall provide Displacees, that are approved by the City of Denton, with a Relocation Assistance Packet consisting of the following approved City of Denton forms:
- 5.8.4.1 Parcel advisory services record
 - 5.8.4.2 Certificate of eligibility
 - 5.8.4.3 Relocation Assistance Brochure
- 5.8.5 Acquisition Provider shall provide on-going relocation assistance and advisory services to Displacees affected by the acquisition of right of way and deliver required City of Denton forms to City of Denton that are signed by the Displacee. On-going advisory services include monitoring the move and any necessary relocation activities taken by the Displacee. Frequency and manner for monitoring the move must match the complexity of the relocation, however, the expectation is multiple in-person site visits, which is standard practice, and must be documented in the contact log portion of the required City of Denton forms to be submitted at close out.
- 5.8.6 Acquisition Provider shall provide 90-day notice:
- 5.8.6.1 Deliver the 90-day notice and benefits package at the same time as the written offer to purchase is delivered.
 - 5.8.6.2 Not deliver the 90-day notice prior to a personal interview with the Displacee during which time the Relocation Agent determines the type, needs, and eligibilities of the Displacee, or before the issuance of the initial offer.
- 5.8.7 Acquisition Provider shall provide 30-day notice to vacate once the City of Denton has possession of the property. The Displacee must be given a minimum of 90 days' notice prior to being required to vacate.
- 5.8.8 Acquisition Provider shall immediately notify City of Denton if the Displacee does not vacate the premises after 30-day notice expires.
- 5.8.9 Acquisition Provider shall prepare all relocation claims on appropriate forms and in accordance with City of Denton policies and procedures.
- 5.8.10 Acquisition Provider shall coordinate, and monitor moves with displaced homeowners, business owners, tenants, and with moving companies in accordance with City of Denton procedures.



5.8.11 Relocation Agent must maintain relocation contact logs on appropriate City of Denton forms journaling all attempted and completed contacts with all parties, including descriptions of the reasons and outcome for each contact. Copies of all Displacees' emails with date and time sent must be captured in the Acquisition Provider's relocation contact logs.

5.8.12 Relocation Agent must:

5.8.12.1 Be available for any relocation appeals and meetings.

5.8.12.2 Prepare all relocation payment claim submissions for all Displacees in accordance with City of Denton guidelines.

5.8.12.3 Deliver warrants in accordance with City of Denton guidelines.

5.8.12.4 Issue Relocation Assistance Program Surveys to all Displacees.

5.8.13 Acquisition Provider shall provide an executed certification of eligibility with all Displacee claims.

5.8.14 The City of Denton must approve the timing and content of any notice to a Displacee concerning relocations prior to the Acquisition Provider sending the notice.

6.0 Environmental Services

ENGINEER will provide Environmental Services under a qualified and approved sub-consultant. Environmental services will provide a desktop survey of the alternate alignments to determine if provide a summary desktop environmental review report encompassing a review of potential aquatic resources, threatened and endangered species, and cultural resources that may be present in the proposed project area, in addition to the regulatory authority associated with the project. No field reconnaissance is included in this scope.

6.1 Phase I Cultural Resources Pedestrian Survey

To comply with the ACT, ENGINEER will provide the following services:

6.1.1 Obtain a Texas Antiquities Permit from the THC to conduct the survey.

6.1.2 Complete a full, intensive pedestrian survey to document archeological resources 50 years or older that could be impacted by the project.

6.1.2.1 The intensive pedestrian survey will be conducted in accordance with the current Council of Texas (CTA) Archeological Survey Standards for Texas that were adopted by the THC on 17 April 2020.

6.1.2.2 The 100-percent intensive cultural resources survey will consist of visual examination of the ground surface and existing subsurface exposures for evidence of archeological sites within the project area and shovel testing to identify any potential subsurface cultural deposits.

6.1.2.3 The survey will implement a multiple-transect scheme with transects not exceeding 30m in width. Areas displaying no potential for archeological deposits will be photographed to document the lack of potential for intact archeological deposits.



- 6.1.2.4 Other documentation methods will include narrative notes, maps, and shovel test records.
- 6.1.3 Texas Archeological Survey Standards require that a minimum of sixty (60) shovel tests be excavated for the project.
 - 6.1.3.1 Shovel tests will be excavated to a maximum depth of eighty (80) centimeters (cm) or the bottom of culturally sterile deposits, typically the argillic (Bt) subsoil horizon in this area.
 - 6.1.3.2 Each shovel test will be at least 30 cm in diameter and will be hand excavated in natural stratigraphic levels not exceeding 20 cm in thickness.
 - 6.1.3.3 Excavated soil will be screened using ¼-inch hardware cloth to facilitate the recovery of buried cultural material. If clay content is high and cannot be efficiently screened, the excavated soil will be troweled through by hand and inspected for cultural deposits.
 - 6.1.3.4 Additionally, the physical properties of each arbitrary level will be recorded.
 - 6.1.3.5 All test locations will be recorded on paper and plotted using hand-held Global Positioning System (GPS) units.
 - 6.1.3.6 Investigators will document the results of each test on standardized shovel test forms.
- 6.1.4 Draft a technical report that documents the archeological background review, survey methods, survey results, any necessary NRHP eligibility assessment, and recommendations.
- 6.1.5 Conduct all necessary coordination with the THC to obtain agency comment.
- 6.2 Additional Archeological Site Evaluation (if required)
 - 6.2.1 It is assumed that there will be no archeological sites will be encountered during Task 6.1. If there is an archeological site encountered during the survey, this task will be required to delineate, evaluate, and document each additional resource within the technical report. This task will be invoiced on a per site basis at the rate identified.
- 6.3 Deed Title Research (if required)
 - 6.3.1 Due to a lack of historic-age (50 years in age or older) residences and farmsteads being located within or adjacent to the project area, this task is not anticipated to be required. However, if a historic-period archeological site is encountered, deed title research may be required to determine if the site was associated with any historically significant individuals or historical events that would qualify the site for NRHP eligibility under Criteria A and B of the NRHP.
 - 6.3.2 Due to the uncertainty of this task being required for the project and the unknown number of sites that may require deed title research this task is presented as an if required task and would be invoiced on a time and materials basis. If required, ENGINEER will prepare a deed chain-of-title table that details the grantor, grantee,



date, and deed record volume and page for each property transfer from current to land patent.

6.4 Delineation of Waters of the United States

ENGINEER will provide professional services to delineate all waters of the United States, including wetlands, at the specified project site. ENGINEER's wetland ecologist will delineate the jurisdictional limits of the streams, and any on-channel ponds based on 33 CFR 328.3[e], delineate the jurisdictional limits of any potential wetlands based on the 1987 USACE Wetland Delineation Manual, the Great Plains Regional Supplement, and current Regulatory Guidance Letters. ENGINEER will record the boundaries of any potential jurisdictional waters with a sub-meter accurate Global Positioning System and on field maps that will be digitized for illustrations and calculations. This delineation map will be provided to the OWNER.

6.4.1 The deliverable for this task is a letter report that summarizes the delineation of the site. The letter report will include:

- 6.4.1.1 Delineation map of the jurisdictional waters of the United States.
- 6.4.1.2 Routine Wetland Determination Data Forms completed for all potential wetlands (including any questionable wetlands).
- 6.4.1.3 Representative photographs of upland and jurisdictional sites.
- 6.4.1.4 Descriptions of the site and each jurisdictional area (i.e., soils, plant communities, historic land use, stream characteristics, and ultimately the quality).
- 6.4.1.5 Determinations as to significant nexus for all wetlands and non-relatively permanent waters within the study limits.
- 6.4.1.6 Definitions of a water of the United States and whether each water/wetland feature meet a definition (i.e., ENGINEER's opinion as to whether they are jurisdictional).

6.5 Protected Species Habitat Assessment

This effort will include:

- 6.5.1 Coordinating with USFWS to determine the species listed in Denton County, habitat surveys for listed protected species and a report presenting the findings of the surveys. Research of available data will determine the listed species and their preferred habitat.
- 6.5.2 A brief letter report will be prepared summarizing the results of the survey. Specifically, the report will describe the habitats present on the site, the protected species that are listed in Denton County and their preferred habitats, and an evaluation of whether or not this preferred habitat is present on the site.
- 6.5.3 Species-specific surveys will not be covered in this scope of services, since they require substantial time throughout particular seasons using specific protocols. Habitat surveys are designed to determine whether the site contains preferred protected species habitat and the likelihood of the presence of that species.



6.6 Section 404/Nationwide Permit Assessment

ENGINEER will utilize a previously conducted delineation to evaluate the proposed site plan to determine compliance with Section 404 of the CWA, specifically the NWP program. ENGINEER will evaluate the proposed project and what impacts the project has in waters of the United States to determine the USACE's scope and type of permit necessary for the impacts. Next ENGINEER will document the NWP terms and conditions, General Conditions, and Fort Worth District Regional Conditions for the applicable permit. Finally, ENGINEER will document how the proposed project complies with each of these conditions. ENGINEER will summarize the delineation, impact assessment, permit conditions, and compliance in a brief letter report.

6.7 Deliverables

6.7.1 Reports documenting results of the environmental assessments.

7.0 Geotechnical Engineering

ENGINEER will contract with a licensed engineer to provide geotechnical investigation and engineering in support of the Basic Services detailed above.

7.1 Field Services: ENGINEER will conduct a subsurface investigation program for no more than nineteen (19) borings at an average of 20 feet in depth along the pipeline alignment and one (1) boring at a depth of 50 feet at the lift station site. The recovered subsurface samples will be preserved and labeled as to the appropriate boring number and depth in the field. If clearing for boring access is required along the creek area, ENGINEER can provide this service for an additional fee on a per day basis.

7.2 Laboratory Services: ENGINEER will conduct Selected laboratory testing of the recovered samples will be performed to evaluate soil index, volume change, and strength properties of the subsurface materials, and to provide data for analysis. These tests may include but may not be limited to the following:

7.2.1 Moisture content

7.2.2 Atterberg limits

7.2.3 Percent passing No. 200 mesh sieve

7.2.4 Unconfined compressive strength (soil and rock)

7.2.5 Overburden swell

7.3 Engineering Analysis and Report: ENGINEER will present data obtained from the field investigation and laboratory in a geotechnical data report. Information to be provided includes the following:

7.3.1 A plan sheet indicating the approximate location of each boring.

7.3.2 A log of each boring with the boring number, depth of each stratum, material description, soil classification with laboratory test results, and groundwater information.

7.3.3 A discussion of subsurface soil and groundwater conditions.

7.3.4 A brief discussion of site geology.



- 7.3.5 Estimates of soil movement related to settlement and expansive soils (if present).
- 7.3.6 Outline of the engineering properties of the natural soils present, and any existing fill, if encountered
- 7.3.7 Recommendations for foundation type, depth and allowable loading, uplift considerations,
- 7.3.8 L-Pile parameters and Seismic Site Class (2018 IBC).
- 7.3.9 Earthwork recommendations, including material type(s), compaction, and backfill requirements.
- 7.3.10 Trench safety recommendations
- 7.4 Deliverables
 - 7.4.1 Electronic copy of Geotechnical Report

8.0 Subsurface Utility Engineering

ENGINEER will provide limited Levels D, C B, and A SUE under a qualified and approved sub-consultant following as part of the study area and alignment study. In general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-22 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). As described in the mentioned ASCE publication, four levels have been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:

- Quality Level D (QL “D”) – Information is determined primarily from the review and documentation of existing second-party information, such as Utility records, historical project records, permits, verbal accounts, existence of service, visual indicators, and/or One-Call markings, put into context with any other information in possession during a Utility Investigation.
- Quality Level C (QL “C”) – Data determined by correlating underground Utility Segments from existing second-party information to observable and measurable visible Utility Features.
- Quality Level B (QL “B”) – Also known as “designating”, this data is determined by correlating appropriate geophysical interpretations indicating a Utility Segment or Utility Feature with other pertinent information in hand to determine the best positional Documentation for the Utility Segment. The horizontal accuracy of the surveyed position (either the location of the instrument or a mark on the ground for later survey) shall be 0.2 ft (60 mm) or better to reduce the survey aspect of the compounding error.
- Quality Level A (QL “A”) – Also known as “locating”, this quality level determined by physically exposing an unobservable Utility Feature or Utility Segment (essentially making it observable) and documenting its spatial extent and characteristics with a high degree of accuracy. Conventional accuracies shall be 0.1 ft (30 mm) vertical and to 0.2 ft (60 mm) horizontal for the measurements of the outside limits of the Utility Feature or Utility Segment that is exposed.



8.1 QL "D" SUE

8.1.1 It is the responsibility of the SUE provider to perform due diligence with regards to records research (QL "D") and acquisition of available utility records. The due diligence provided for this project will consist of contacting applicable "one call" agencies, visually inspecting the work area for evidence of utilities, and reviewing the available utility record information. Utilities not identified through these efforts will be referred to as "unknown" utilities. ENGINEER will scan the defined work area using electronic prospecting equipment to search for "unknown" utilities. ENGINEER is not responsible for designating and locating "unknown" utilities that were not detected while scanning the work area.

8.1.2 Utilities to be designated include gas, telecommunications, electric, traffic signals, storm, water and sanitary sewer. Irrigation lines and inventory of overhead utilities are excluded from this scope of work. ENGINEER expects to encounter non-toneable utilities and service lines throughout the project. ENGINEER to perform QL "D" investigation along an approximately 3.4-mile alignment.

8.2 QL "B" SUE

8.2.1 ENGINEER will trace toneable utilities within 25-feet on either side of the proposed pipeline using geophysical prospecting equipment. QL "B" will be within 25 ft each side of the proposed sanitary lines shown on the attached exhibit. It is anticipated that the following utilities may be found: gas, electric, water, wastewater, telephone, and fiber optic cable. It is assumed there will be equivalent to 2 parallel utilities within the length of 1 mile alignment along Robson Crossing and 10 utility crossings within the length of remaining 2.75-mile alignment. For estimating purposes, we have assumed a total linear footage of utilities mapped equal to 13,000 LF.

8.3 QL "A" SUE

8.3.1 ENGINEER will measure three-dimensional (x,y,z) utility locations utilizing nondestructive vacuum excavation equipment to expose utilities at critical points in up to 10 locations. The horizontal and vertical positioning of utilities will be surveyed within approximately 0.05 feet. The QL "A" SUE work is based on the following assumption:

8.3.1.1 10 test holes up to 10-ft deep (specific location TBD)

8.3.1.2 Coring/sawcutting and repairing pavement, up to 5 locations (specific location TBD)

8.4 Deliverables

8.4.1.1 Testhole coordinates data sheet

8.4.1.2 SUE plans identifying utility, level of investigation, and owner (or incorporate the information into the plan and profile drawings)

8.4.1.3 SUE completion reports



9.0 Surveying

ENGINEER will contract with a registered professional land surveyor to provide land surveying services in support of the Basic Services and Special Services detailed above. Surveying services to be provided include the following:

9.1 Topographic Survey

9.1.1 Survey will horizontally and vertically locate visible surface features within the project area as shown in the OWNER-provided Project exhibit and being more specifically detailed below.

9.1.1.1 Main project area cross sections and/or mapping will be collected generally at 50' intervals and at all breaks in grade producing 1' interval contours for a 100-feet wide swath.

9.1.1.2 Proposed lift station location will be surveyed in a swath to properly cover proposed improvements.

9.1.1.3 Mapping is included for the fenced area of Robson Ranch WWTP. Mapping is included through the footprint of the existing structures and does not include detailing the workings within each structure.

9.1.1.4 Mapping for the full fenced area of East Lift Station is included in this estimate. Mapping is included through the footprint of the existing structures and does not include detailing the workings within each structure.

9.1.1.5 All trees 6" or larger will be located in the field. Common name and approximate trunk size will be noted on the survey.

9.1.1.6 Orthorectified imagery, captured using UAV drone technology, will be used to provide an aerial background to the deliverable Photogrammetry, derived from the orthorectified imagery, will be utilized to capture mapping and improvements as applicable.

9.1.1.7 UAV based LiDAR will be utilized to capture mapping and improvements as applicable.

9.1.2 Deliverables

9.1.2.1 Topographic survey in AutoCAD format

9.1.2.2 Base Map: An electronic base map at 1:1 scale (base unit US Survey Foot) containing pertinent Topographic field data will be prepared.

9.1.2.2.1 National CAD Standard drafting standards including layers and styles will be used.

9.1.2.2.2 Text will be oriented with north being true reading West to East.

9.1.2.2.3 The base map shall be in AutoCAD DWG format.

9.1.2.2.4 DTM generated contours shall have one-foot minor and five-foot major intervals.

9.1.2.2.5 XML surface file, defining the AutoCAD Civil 3D surface.



9.1.2.2.6 UAV captured imagery will be used as a background in the deliverable.

9.1.2.2.7 PDF electronic copies of all project research used to workup the project mapping which includes but is not limited to plats, deeds, right-of-way maps and provided utility maps.

9.1.2.2.8 PDF electronic copies of all the Texas811 tickets and correspondence.

9.1.2.2.9 PDF copy of all field notes.

9.2 Right-of-Way and Easement Instruments

9.2.1 Prepare metes and bounds descriptions with accompanying map exhibit for permanent and temporary instruments on a per instrument basis (up to 15).

9.2.2 Deliverables

9.2.2.1 One electronic executed PDF of the complete instrument for each parcel.

9.2.2.2 Existing appraisal district tax card, parent deed and/or plat, map check for each exhibit and all other supporting documentation.

9.2.2.3 Signed and sealed PDF of the final documents. Paper copies are not included.

9.2.2.4 All documents will include NAD83 GRID coordinates for the point of beginning, horizontal scaling factors and basis of bearings information.

10.0 Construction Phase Services

ENGINEER will provide the Construction Services detailed below. By performing these services, ENGINEER shall not have authority or responsibility to supervise, direct, or control the Contractor's work or the Contractor's means, methods, techniques, sequences, or procedures of construction. ENGINEER shall not have authority or responsibility for safety precautions and programs incident to the Contractor's work or failure of the Contractor to comply with laws, regulations, rules, ordinances, codes, or orders applicable to the Contractor furnishing and performing the work.

Specific services to be performed by ENGINEER are as follows:

10.1 Attend and participate in pre-construction meeting with OWNER and selected general contractor (assume attendance by maximum of two (2) ENGINEER representatives).

10.2 Review submittals delivered to ENGINEER by the selected general contractor for compliance and conformance with the contract documents (assume review of a maximum of 100 submittals, including re-submittal documents). Post formal written review responses in electronic format (PDF) via designated project FTP site for selected general contractor's use. Maintain submittal log, including current record of the submittals delivered and the status of the review of those submittals.

10.3 Review requests for information (RFI) by the selected general contractor (assume review of a maximum of 50 RFI) and prepare a response to the RFI providing interpretation of the contract documents. Inform OWNER of RFI, as well as ENGINEER's proposed response and



recommended selected general contractor action, if applicable. Maintain RFI log, including current record of the RFIs received and the status of the response to those RFI.

10.4 Review change order requests by the selected general contractor (assume review of a maximum of 5 change orders). Prepare a response to the change order request providing interpretation of the contract documents and comments on the cost items. Inform OWNER of change order request, as well as ENGINEER's proposed response, including recommended acceptance or rejection of the proposed change order request by the OWNER (assume OWNER will be responsible for formally processing all accepted change orders). Maintain change order log, including current record of the change orders received, as well as the status and cost of all accepted change orders.

10.5 Review monthly applications for payment by selected general contractor following review by OWNER's designated onsite representative responsible for day-to-day construction observation (assume review of a maximum of 24 applications for payment). Provide comments, if applicable, and/or recommendation of payment by OWNER for items completed (assume OWNER will be responsible for formally processing all approved applications for payment). Maintain record of payments made to date, retainage amount, number and value of any change orders, any changes in the contract duration.

10.6 Attend monthly construction progress meetings (assume a maximum of 24 construction progress meetings will be held and that a maximum of two (2) ENGINEER representatives will attend each meeting).

10.7 Attend substantial completion walk-through with OWNER and selected general contractor (assume attendance by maximum of four (4) ENGINEER representatives).

10.8 Prepare comprehensive punch list of action items to be completed by the selected general contractor, based on issues identified during the substantial completion walk-through. Distribute electronic (PDF) punch list to OWNER, OWNER's designated onsite representative and selected general contractor.

10.9 Attend final completion walk-through and verify that all punch list items have been addressed by selected construction contractor (assume attendance by maximum of four (4) ENGINEER representatives).

10.10 Confirm that all items required under the terms of the contract as a condition of final payment issuance, including operation and maintenance manuals and as-built drawing markups, have been provided by selected general contractor. Recommend processing of final payment by OWNER.

10.11 Deliverables:

10.11.1 Prepare construction as-built drawings using electronic redline drawings provided monthly by the selected general contractor. Submit as-built drawings to OWNER (provide one (1) electronic (PDF) file of all drawings on flash drive).

10.11.2 Prepare and submit project "Completion Notification" to TCEQ in accordance with prevailing Chapter 217 criteria (§217.13).

11.0 Additional Services at Request of City of Denton



EXCLUSIONS & ASSUMPTIONS

ENGINEER shall consider the following items to be outside of the scope of work for the basic and special services tasks, as outlined herein, to be performed by ENGINEER in conjunction with the completion of the Project. ENGINEER's completion of all or a portion of the services outlined below shall require detailed scope development, the provision of additional fee, and formal, written authorization by the OWNER.

1. Flow monitoring (I/I evaluation and identification).
2. Remediation of any hazardous materials uncovered on the site
3. Services for other agency or local permits not identified above (i.e., TxDOT, railroad, Americans with Disabilities Act (ADA), building permits, etc.)
4. Condition assessment or rehabilitation design on infrastructure intended to stay in service.
5. Payment of any application or permitting fees
6. Hydrologic/hydraulic and/or floodplain studies related to the site
7. Landscaping design
8. Offsite utilities or infrastructure design, not identified in the contract scope
9. Architectural design
10. Performance of materials testing or specialty testing services
11. Construction staking
12. Services related to development of City's project financing and/or budget
13. Attendance at public meetings
14. Services related to disputes over pre-qualification, bid protests, bid rejection, and re-bidding of the contract for construction
15. Services necessary due to the default of the general contractor
16. Services related to damages caused by fire, flood, earthquake, or other acts of God
17. Services related to warranty claims, enforcement, and inspection after final completion
18. Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by City
19. Services related to any significant deviations and/or additions to anticipated detailed design scope
20. Miscellaneous/supplemental services requested by City not specified herein.
21. If a cultural resources site within the project area is determined to be potentially eligible for listing on the NRHP, the resource may require additional assessment (Phase II testing) and coordination to determine official NRHP eligibility. Costs of Phase II testing and Phase III mitigation services are not included as part of this proposal.
22. As it is not known whether a Nationwide Permit Preconstruction Notification to the



USACE is needed for this project until all tasks are completed in this scope of services, this service is specifically excluded from the agreement.

23. This scope of services specifically excludes assessing the project for the City of Denton's Environmentally Sensitive Areas and preparing an Alternate ESA.
24. Clearing for boring access along the creek area.
25. Overhead utilities, irrigation control wires and service drops to residences will not be included in SUE scope.
26. Lane closures and traffic control are not included in SUE scope.
27. This scope does not include hiring an abstractor to conduct abstracting services for property, easement and right-of-way research. Current platting and/or deed information available at the County and information provided to the ENGINEER by the OWNER will be used for this project.
28. This scope does not include the services of an arborist or licensed landscape architect to provide tree size and scientific name. ENGINEER will attempt to approximately identify the common name and size of each project affected tree.
29. If a cultural resources site within the project area is determined to be potentially eligible for listing on the NRHP, the resource may require additional assessment (Phase II testing) and coordination to determine official NRHP eligibility. Costs of Phase II testing and Phase III mitigation services are not included as part of this proposal.
30. This scope of services specifically excludes any cultural resources surveys for deep sediment deposits. If the THC requires surveys that require backhoe trenching, these will be conducted as an Additional Service.
31. ENGINEER to rely on the accuracy of all documents and data provided by the OWNER in the performance of the work.
32. ENGINEER assumes that permitting meetings will occur within the Dallas and Fort Worth metroplex. Travel and meetings at headquarters outside of the Dallas and Fort Worth metroplex shall be considered an Additional Service. ENGINEER assumes permits will be approved based on the proposed design.
33. ENGINEER assumes that the creeks would be crossed by horizontal directional drill or tunneling or open cut methods limiting impacts to waters of the U.S. and would meet the terms and conditions of Nationwide Permit 12 or other nationwide permits. No Individual Section 404 Permit, Notification under Nationwide Permit 12, or compensatory mitigation or mitigation plan is included in this scope. If an Individual Permit, notification, or compensatory mitigation plan are required, they would be pursued as an Additional Service.
34. ENGINEER assumes that no presence-absence surveys will be required. If presence-absence surveys or agency coordination are required, they would be pursued as an Additional Service.
35. ENGINEER assumes no backhoe or artifact testing or mitigation of cultural resource sites since significant cultural resource sites can typically be avoided by utility line



projects. If testing or mitigation is required, they will be pursued as an Additional Service.

36. ENGINEER assumes there will be no installation of or modification to metering systems that would require electrical/SCADA design.
37. ENGINEER assumes right-of-way and/or easement acquisition will occur without moving into condemnation proceedings. Right-of-way services do not include appearance before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the OWNER.

ATTACHMENT B

Item No.	Task Description	\$450	\$360	\$345	\$300	\$315	PRIME CONSULTANT		\$190	\$120	LABOR TOTAL	2.86%	SUBCONSULTANT					10% Markup	TOTAL
		Project Principal	Technical Advisor	QA/QC Engineer	Sr. Engineer / Project Manager	Project Engineer	\$255	\$175	Design Engineer	Staff Engineer		Sr. Technician	Admin	Expenses	Survey/Easements - Spooner	SUE - CobbFendley	Geotechnical - Geotex		
1.0	Project Management						Basic Services												
1.1.1	Project Planning: Develop project work plan and detailed resource plan.	2.0			8.0						\$ 3,300	\$ 99					\$ -		
1.1.2	Team Management: Lead, manage and direct design team activities. Communicate internally among team members and sub consultants. Task, schedule and allocate team resources.	2.0			12.0						\$ 4,500	\$ 135					\$ -		
1.1.3	Quality Assurance: Ensure quality control is practiced in performance of the work by both the design team and sub-consultants.	2.0		12.0							\$ 5,040	\$ 151					\$ -		
1.2.1	Pre-Design Kickoff Meeting: Attend a pre-design project kickoff meeting or conference call with OWNER staff to confirm and clarify scope and to understand OWNER objectives and Project requirements. It is assumed that the OWNER will ensure that appropriate personnel from the planning, engineering, inspection, and/or operation departments are present at the pre design kickoff meeting.	4.0	4.0		4.0			4.0			\$ 5,140	\$ 154					\$ -		
1.2.2	OWNER Meetings: ENGINEER will arrange for and participate in meetings or conference calls with OWNER throughout the design phase with a formal discussion to exchange ideas, make critical decisions, or discuss preferences with operations staff. These meetings are generally intended to be conducted during the corridor study and alignment study. In addition to the formal meetings, ENGINEER will arrange for informal regular status update meetings (via conference call) with the OWNER's project manager on a bi-weekly basis.	8.0			60.0		40.0	40.0			\$ 38,800	\$ 1,164					\$ -		
1.2.3	Developer Coordination Meetings: Conduct coordination meetings or conference calls with Robson Ranch, Hunter Ranch, and Cole Ranch (both formal and informal) to discuss alignments and easement acquisition of proposed pipeline. These meetings are generally intended to be conducted at project onset, during the alignment study, and during easement acquisition.				20.0		20.0	20.0	20.0		\$ 18,400	\$ 552					\$ -		
1.2.4	Permitting Entity Coordination Meetings: Conduct coordination meetings or conference calls with the permitting entities to determine permit constraints for the selected alignment and necessary variances. The anticipated meetings include meetings with TCEQ.				12.0		12.0	20.0	12.0		\$ 12,440	\$ 373					\$ -		
1.2.5	Utility Coordination: ENGINEER will prepare and maintain an updated utility contact list and will coordinate with the Utility Owners to provide the latest updates which include plans, exhibits, schedules and ROW information as necessary. ENGINEER will also work with the Utility Owners and the design team to plan for any test holes needed to verify utility horizontal or vertical alignments. ENGINEER will hold utility meetings as needed, assuming there will be 2 group meetings with the utility owners and the design team.				4.0		4.0	8.0		8.0	\$ 4,580	\$ 137					\$ -		
1.2.6	Monthly Invoices: Prepare invoices and submit monthly				15.0					15.0	\$ 6,300	\$ 189					\$ -		
1.2.7	Monthly Progress Reports: Prepare monthly progress reports through all phases of design.				6.0			12.0			\$ 3,900	\$ 117					\$ -		
1.2.8	Project Schedule: Prepare and submit a baseline Project Schedule at project kick-off and a Project Schedule updates with each invoice (approximately monthly).			2.0	2.0			8.0			\$ 2,690	\$ 81					\$ -		
1.3	Right-of-Entry: ENGINEER will prepare a list of landowners based on deed research and mail letters requesting rights-of-entry onto property. If access cannot be obtained, then OWNER will be asked for assistance in obtaining rights-of-entry.				4.0			8.0		4.0	\$ 3,080	\$ 92					\$ -		
1.4	Funding Assistance : ENGINEER will assist OWNER in preparing applications and supporting documents for governmental grants, loans, or planning advances and providing data for detailed applications. It is anticipated that OWNER will pursue WIFIA and CWSRF funding.				20.0			40.0		20.0	\$ 15,400	\$ 462					\$ -		
Subtotal Task 1.0 - Project Management		18.0	4.0	14.0	167.0	-	76.0	160.0	32.0	47.0	\$ 123,570	\$ 3,707	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 127,277	
2.0	Lift Station																		
2.1	Preliminary Design (30%)																		
2.1.1	Document Review: Review historical documents, property documents and other available documents to identify existing conditions, property status, and current/projected flows for the facility. Obtain and review analogous LS operational data from the OWNER.		4.0					12.0			\$ 3,540	\$ 106					\$ -		
2.1.2	Kickoff Meeting: Attend a project kick-off meeting with the City. Review findings and recommendations of aforementioned documentation, and discuss key design decisions, desired operational features, any additional items to be examined and/or considered as part of the McGary LS project and obtain guidance to develop the project basis of design	4.0	4.0		4.0	4.0					\$ 5,700	\$ 171					\$ -		
2.1.3	Design Concept Review: Conduct an internal design concept review (DCR) meeting that allows senior technical staff to share ideas to meet/exceed project objectives, verify fulfillment of project requirements and mitigate potential project risks. Facilitate a design concept review meeting with the OWNER to discuss information identified during the internal DCR and solicit the OWNER's input to guide the project direction.	4.0	8.0	2.0	8.0	16.0		8.0			\$ 14,210	\$ 426					\$ -		
2.1.4	Basis of Design: Prepare the project Basis of Design using the information and input identified during DCR. The Basis of Design will identify the required design parameters and will be provided to the OWNER for review and concurrence.		2.0		2.0	12.0		8.0			\$ 6,500	\$ 195					\$ -		
2.1.5	Risk Assessment: Perform a project risk assessment to identify potential risks (including schedule delays) and develop mitigation strategies to address the risks.	2.0	2.0		4.0	4.0		4.0			\$ 4,780	\$ 143					\$ -		
2.1.6	Risk Assessment Workshop: Conduct a risk assessment workshop with the OWNER to ensure appropriate risks are included and mitigation strategies are consistent with the OWNER's desires.	4.0	4.0		4.0	4.0					\$ 5,700	\$ 171					\$ -		
2.1.7	Lift Station Hydraulic Evaluation: Perform an evaluation of the proposed West LS, including hydraulics associated with the force main to identify potential issues with immediate and long-term capacity. The potential need and operation of single and dual force mains may be considered.		2.0	4.0	12.0			40.0			\$ 12,700	\$ 381					\$ -		
2.1.8	Sewershed Modeling: Perform an update to the OWNER's existing wastewater model for the West LS sewer shed ((OWNER Sewershed designation) based on 20XX Water and Wastewater Condition and Capacity Assessment Studies) utilizing Bentley's SewerGEMS.	8.0		8.0	18.0	40.0		80.0			\$ 38,360	\$ 1,151					\$ -		
2.1.9	Design Alternatives: Develop design alternatives to accomplish the project objectives/requirements and that incorporate the identified risk mitigation strategies.		2.0		2.0	4.0		4.0			\$ 3,280	\$ 98					\$ -		
2.1.10	Design Alternatives Meeting: Meet with the OWNER to present the design alternatives, receive OWNER input, identify OWNER preferences, and verify alternatives that will be further evaluated.	4.0	4.0		4.0	4.0					\$ 5,700	\$ 171					\$ -		
2.1.11	Preliminary Design Report: ENGINEER will prepare Preliminary Design Report (PDR)	6.0	8.0	4.0	16.0	24.0		80.0	16.0		\$ 36,360	\$ 1,091					\$ -		
2.1.12	Prepare 30% Bid Specifications	2.0	8.0	4.0	6.0	24.0		24.0			\$ 18,720	\$ 562					\$ -		
2.1.13	Prepare 30% Bid Drawings	2.0	8.0	4.0	6.0	24.0		24.0	60.0		\$ 30,120	\$ 904					\$ -		
2.1.14	Compile and Submit 30% Bid Package for CMAR				4.0	4.0		8.0	8.0		\$ 5,380	\$ 161					\$ -		

ATTACHMENT B

Item No.	Task Description	PRIME CONSULTANT								SUBCONSULTANT							TOTAL
		\$450 Project Principal	\$360 Technical Advisor	\$345 QA/QC Engineer	\$300 Sr. Engineer / Project Manager	\$315 Project Engineer	\$255 Design Engineer	\$175 Staff Engineer	\$190 Sr. Technician	\$120 Admin	LABOR TOTAL	2.86% Expenses	Survey/Easements - Spooner	SUE - CobbFendley	Geotechnical - Geotex	Environmental - IES	
2.2	Detailed Design (60%)									\$ -							
2.2.1	60% Construction Drawings: Prepare applicable construction drawings, including drawings, sections, and details, for all design disciplines.	2.0	2.0	12.0	32.0	80.0		60.0	160.0	\$ 81,460	\$ 2,444						\$ -
2.2.2	OWNER Specifications: ENGINEER will prepare required Front-End and technical specifications for the project. If an alternative bid strategy is recommended, ENGINEER will develop technical specifications and instructions to bidders matching the appropriate methodology.	2.0	2.0	6.0	24.0	24.0		60.0		\$ 28,950	\$ 869						\$ -
2.2.3	Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare 60% OPCC.				8.0	8.0		8.0	4.0	\$ 7,080	\$ 212						\$ -
2.2.4	Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the submittal and develop comments.		8.0							\$ 2,880	\$ 86						\$ -
2.2.5	Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of additional information needed or discussion suggested.	1.0	1.0		4.0			4.0		\$ 2,710	\$ 81						\$ -
2.2.6	CMAR Review Comments: Facilitate and attend comment resolution meeting with CMAR to discuss constructability and value engineering opportunities.		4.0		4.0	4.0				\$ 3,900	\$ 117						\$ -
2.2.7	CMAR RFIs: Catalog and respond to CMAR requests for information throughout final design (Assume 5 RFIs).		2.0		5.0	5.0				\$ 3,795	\$ 114						\$ -
2.2.8	Submittal Review: Catalog and respond to CMAR material submittals during design to facilitate accelerated construction timeline (Assume 5 Submittals).				5.0	10.0				\$ 4,650	\$ 140						
2.3	Pre-Final Design (90%)																
2.3.1	90% Construction Drawings: ENGINEER will prepare construction drawings for the lift station consisting of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.	2.0	2.0	8.0	24.0	80.0		60.0	120.0	\$ 70,080	\$ 2,102						\$ -
2.3.2	90% Specifications: ENGINEER will update required Front-End and technical specifications for the project consistent of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.	2.0	2.0	6.0	16.0	16.0		40.0		\$ 20,530	\$ 616						\$ -
2.3.3	OPCC: ENGINEER will prepare 90% OPCC.				8.0	8.0		8.0	4.0	\$ 7,080	\$ 212						\$ -
2.3.4	Review Comments: OWNER will consolidate 90% submittal review comments and provide to ENGINEER.	1.0	1.0		4.0			4.0		\$ 2,710	\$ 81						\$ -
2.3.5	Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the 90% submittal and develop comments.		8.0							\$ 2,880	\$ 86						\$ -
2.3.6	CMAR Review Comments: Facilitate and attend comment resolution meeting with CMAR to discuss constructability and value engineering opportunities.		4.0		4.0	4.0				\$ 3,900	\$ 117						\$ -
2.4	Final Design (100%) Bid Documents									\$ -							
2.4.1	100% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.	2.0	2.0	8.0	20.0	24.0		40.0	48.0	\$ 34,060	\$ 1,022						\$ -
2.4.2	100% Specifications: ENGINEER will finalize required Front-End and technical specifications for the project consistent of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.	2.0	2.0	4.0	8.0	16.0		16.0		\$ 13,240	\$ 397						\$ -
2.4.3	OPCC: ENGINEER will prepare 100% OPCC.				4.0	4.0		4.0	2.0	\$ 3,540	\$ 106						\$ -
Subtotal Task 2.0 - Lift Station		50.0	96.0	70.0	260.0	447.0	-	596.0	422.0	-	\$ 484,495	\$ 14,535	\$ -	\$ -	\$ -	\$ -	\$ 499,030
3.0	Force Main and Gravity Mains																
3.1	Preliminary Design (30%)																
3.1.1	Pipeline Alignment Study: The pipeline alignment study will be completed in a series of technical memos establishing criteria, comparing alternatives, and making recommendations based on the description written in this section. The volume of final technical memorandums will serve as the project Preliminary Design Report. The final volume will include an executive summary.			1.0	2.0	8.0				\$ 3,465	\$ 104						\$ -
3.1.1.1	Project Alternatives Mapping: ENGINEER will develop alternatives by mapping available data for environmentally sensitive areas, topographic features, available parcel data, NCTCOG available data including digital ortho, aerial mapping and other significant alignment information on color aerial, NCTCOG topo or another appropriate base map. ENGINEER will overlay up to four (4) alternative alignments on the project corridor mapping. These maps are anticipated to be a roll plot style presentation at a scale of approximately 1" = 1,000'. The scale may be adjusted during development for accuracy or readability purposes if necessary.		2.0	2.0	16.0	40.0		16.0		\$ 21,610	\$ 648						\$ -
3.1.1.2	ENGINEER will conduct site visits (staying within public right-of-way) to evaluate alignment alternatives.				12.0	12.0				\$ 7,380	\$ 221						\$ -
3.1.1.3	Easements and Public Impacts: ENGINEER will identify the easement sizing (permanent and temporary) and prepare a list of probable easement requests stating landowners and size for the alternate alignments. This will consider the proposed developments within the alignment.				8.0			12.0	12.0	\$ 6,780	\$ 203						\$ -
3.1.1.4	Alignment Selection: ENGINEER will create a report comparing the alignments evaluated, easements, and hydraulics. The memorandum will include a recommendation for the alignment to advance to survey.			4.0	10.0	20.0				\$ 10,680	\$ 320						\$ -
3.1.1.5	Pipeline Materials: ENGINEER will identify alternate materials available for the proposed pipeline corridor and recommend up to three (3) materials for design and bidding for OWNER approval. This is anticipated to include FRP, PVC, and HDPE, depending on size.		2.0	2.0	2.0	4.0				\$ 3,270	\$ 98						\$ -
3.1.2	30% Plan Drawings Preparation: ENGINEER will create plan view background drawings along the selected alignment using the latest available aerial imagery from Nearmap. ENGINEER will provide sketches and drawings showing the final horizontal plan view alignment and preliminary profile views (based on surveyed topography) of the approved pipeline alignment. These maps are anticipated to be a stripmap style presentation in a scale of approximately 1" = 20'.		2.0	8.0	20.0		80.0	80.0		\$ 38,680	\$ 1,160						\$ -
3.1.3	Specification Preparation: ENGINEER will obtain OWNER furnished front-end documents. ENGINEER will prepare submit preliminary technical specifications table of contents for the anticipated project manual along for review by the OWNER.			2.0	8.0			8.0		\$ 4,490	\$ 135						\$ -
3.1.4	Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare a preliminary OPCC.			1.0	1.0	2.0		2.0	-	\$ 1,625	\$ 49						\$ -
3.1.5	Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of disagreement.			2.0	8.0			8.0		\$ 4,490	\$ 135						\$ -
3.1.6	Constructability Review: ENGINEER will conduct a field Constructability Review, with representatives of OWNER, to walk the project and identify construction and/or design challenges. ENGINEER will summarize the OWNER's comments from the field visit and submit this information to the OWNER in writing.				6.0	6.0			2.0	\$ 4,070	\$ 122						\$ -

ATTACHMENT B

Item No.	Task Description	PRIME CONSULTANT									SUBCONSULTANT							TOTAL
		\$450	\$360	\$345	\$300	\$315	\$255	\$175	\$190	\$120	LABOR TOTAL	2.86%	Survey/Easements - Spooner	SUE - CobbFendley	Geotechnical - Geotex	Environmental - IES	10% Markup	
Project Principal	Technical Advisor	QA/QC Engineer	Sr. Engineer / Project Manager	Project Engineer	Design Engineer	Staff Engineer	Sr. Technician	Admin	Expenses									
3.2	Detailed Design (60%)										\$ -							
3.2.1	60% Construction Drawings: ENGINEER will prepare construction drawings for the pipelines that will generally include: Cover Sheet Overall Sheet Layout Overall Hydraulic Profile Easement Sheets General Notes Sheets Plan and Profile Drawings General Details: Tunnel Design and Special Details: Erosion Control Plans and Details Traffic Control Plans and Details Interconnection Concept Design		8.0	32.0	80.0			240.0	160.0		\$ 110,320	\$ 3,310					\$ -	
3.2.2	OWNER Specifications: ENGINEER will prepare required Front-End and technical specifications for the project. If an alternative bid strategy is recommended, ENGINEER will develop technical specifications and instructions to bidders matching the appropriate methodology.		8.0	16.0	80.0			80.0			\$ 46,400	\$ 1,392					\$ -	
3.2.3	Opinion of Probable Construction Cost (OPCC): ENGINEER will prepare 60% OPCC.			4.0	4.0			8.0			\$ 3,980	\$ 119					\$ -	
3.2.4	Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the submittal and develop comments.				8.0	8.0					\$ 4,920	\$ 148					\$ -	
3.2.5	Review Comments: OWNER will consolidate submittal review comments and provide to ENGINEER. ENGINEER will incorporate OWNER comments into subsequent submittals or prepare a written response of additional information needed or discussion suggested.			4.0	8.0			12.0			\$ 5,880	\$ 176					\$ -	
3.3	Pre-Final Design (90%)										\$ -							
3.3.1	90% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.		8.0	40.0	80.0	180.0	180.0	260.0	100.0		\$ 207,780	\$ 6,233					\$ -	
3.3.2	90% Specifications: ENGINEER will update required Front-End and technical specifications for the project consistent of all elements identified in the Detailed Design (60%) Documents and will address all previously received OWNER comments.		8.0	24.0	80.0	40.0	20.0				\$ 52,860	\$ 1,586					\$ -	
3.3.3	OPCC: ENGINEER will prepare 90% OPCC.			4.0	4.0	8.0		2.0			\$ 5,480	\$ 164					\$ -	
3.3.4	Review Comments: OWNER will consolidate 90% submittal review comments and provide to ENGINEER.			2.0	8.0	8.0	8.0				\$ 7,650	\$ 230					\$ -	
3.3.5	Workshop: ENGINEER will attend a workshop hosted by the OWNER to review the 90% submittal and develop comments.				4.0	4.0		2.0			\$ 2,840	\$ 85					\$ -	
3.4	Final Design (100%) Bid Documents										\$ -							
3.4.1	100% Construction Drawings: ENGINEER will prepare construction drawings for the pipeline consisting of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.		4.0	40.0	40.0	80.0	120.0	80.0	60.0		\$ 108,440	\$ 3,253						
3.4.2	100% Specifications: ENGINEER will finalize required Front-End and technical specifications for the project consistent of all elements identified in the Pre-Final Design (90%) Documents and will address all previously received OWNER comments.		4.0	16.0	40.0	60.0	20.0				\$ 42,960	\$ 1,289					\$ -	
3.4.3	OPCC: ENGINEER will prepare 100% OPCC.			4.0	4.0	12.0					\$ 6,360	\$ 191					\$ -	
Subtotal Task 3.0 - Force Main and Gravity Mains		-	46.0	208.0	533.0	492.0	348.0	806.0	418.0	-	712,410	\$ 21,372	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 733,782
4.0	Bid Phase Services																	
4.1	Prepurchase Package: The purpose of the prepurchase package is to allow the OWNER to procure long lead-time items that would affect project delivery schedule if otherwise bid as part of the final design package. The long lead-time items will be identified during Preliminary Design and confirmed with the OWNER.		4.0		16.0	4.0		16.0		2.0	\$ 10,540	\$ 316					\$ -	
4.1.1	Technical Specifications: Prepare applicable technical specifications (Divisions 1 – 46) and technical data sheets (Division 11 only) using LAN-standard technical specification documents needed for prepurchase of selected equipment.			6.0	8.0						\$ 4,470	\$ 134					\$ -	
4.1.2	Front End Specifications: Prepare contract documents (Division 0, including Bid Form) using OWNER-provided standard contract documentation. NOTE: OWNER to provide Division 0 Specifications related to the bidding for revisions in coordination with Legal.			6.0	8.0						\$ 4,470	\$ 134					\$ -	
4.2	Invitation to Bid: ENGINEER will provide support for up three (3) bid events associated with the project. ENGINEER to coordinate bid letting date, time, and place with OWNER and prepare final invitation to Bid. ENGINEER to assist and advise OWNER in placing advertisements of the Invitation to Bid.	-	-	-	8.0		-	16.0	8.0	-	\$ 6,720	\$ 202					\$ -	
4.3	Pre-Bid Conference: ENGINEER to assist the OWNER at one (1) pre-bid conference.	-	8.0	-	8.0		-	12.0	4.0	-	\$ 8,140	\$ 244					\$ -	
4.4	Addenda: ENGINEER to respond to questions presented during the bid phase in the form of addenda to the construction contract documents when required and agreed upon with the OWNER.	4.0	8.0	8.0	40.0		-	40.0	4.0	-	\$ 27,200	\$ 816					\$ -	
4.5	Bid Tabulation and Review: ENGINEER to assist OWNER during bid opening, making a preliminary tabulation of bids and reviewing questionnaires and bids for completeness. ENGINEER to review and evaluate qualifications of the apparent successful bidder and the proposed major or specialty subcontractors. Review and evaluation will include such factors as work previously completed, equipment that is available for the work, publicly available financial resources, technical experience, and responses from references. ENGINEER to prepare and distribute formal bid tabulation sheets, evaluate bids, and make written recommendations to OWNER concerning contract award.	-	2.0	2.0	12.0		-	16.0	-	-	\$ 7,810	\$ 234					\$ -	
4.6	Conformed Documents: ENGINEER to prepare and distribute Conformed Documents, incorporating all addenda. Conformed specifications will include review of contractor's bonds, furnishing to the Contractor unsigned construction contract documents, and transmitting the construction contract documents to OWNER for signature and distribution.		2.0		2.0			16.0	16.0	4.0	\$ 7,640	\$ 229					\$ -	
Subtotal Task 4.0 - Bid Phase Services		4.0	24.0	22.0	102.0	4.0	-	116.0	32.0	6.0	\$ 76,990	\$ 2,310	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 79,300
TOTAL FEE (BASIC SERVICES)											\$ 1,397,465	\$ 41,924	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,439,389

Item No.	Task Description	PRIME CONSULTANT									SUBCONSULTANT							TOTAL	
		\$450	\$360	\$345	\$300	\$315	\$255	\$175	\$190	\$120	LABOR TOTAL	2.86%	Survey/Easements - Spooner	SUF - CobbFendley	Geotechnical - Geotex	Environmental - IES	10% Markup		
		Project Principal	Technical Advisor	QA/QC Engineer	Sr. Engineer / Project Manager	Project Engineer	Design Engineer	Staff Engineer	Sr. Technician	Admin		Expenses							
Special Services																			
5.0	Right-of-Way Services																		
	Project Administration (10 Months)										\$ 135,000	\$ 4,050						\$ -	
	Negotiation (11 Parcels)										\$ 191,400	\$ 5,742						\$ -	
	Appraisals (11 Parcels)										\$ 71,500	\$ 2,145						\$ -	
	Title Policy (11 Parcels)										\$ 27,500	\$ 825						\$ -	
	Appraisal Reports (11 Parcels)										\$ 22,000	\$ 660						\$ -	
	Testimony (3 Parcels)										\$ 18,000	\$ 540						\$ -	
	Advanced Negotiation (3 Parcels)										\$ 16,500	\$ 495						\$ -	
	Condemnation Support (3 Parcels)										\$ 30,900	\$ 927						\$ -	
	Relocation (personal property) (3 Parcels)										\$ 10,500	\$ 315						\$ -	
Subtotal Task 5.0 - Right-of-Way Services		-	-	-	-	-	-	-	-	-	\$ 523,300	\$ 15,699	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 538,999
6.0	Environmental Services																		
6.1	Phase I Cultural Resources Pedestrian Survey															\$ 18,000	\$ 1,800		
6.2	Additional Archeological Site Evaluation (if required): 6.2.1 It is assumed that there will be no archeological sites will be encountered during Task 6.1. If there is an archeological site encountered during the survey, this task will be required to delineate, evaluate, and document each additional resource within the technical report. This task will be invoiced on a per site basis at the rate identified.															\$ 2,800	\$ 280		
6.3	Deed Title Research (if required): 6.3.1 Due to a lack of historic-age (50 years in age or older) residences and farmsteads being located within or adjacent to the project area, this task is not anticipated to be required. However, if a historic-period archeological site is encountered, deed title research may be required to determine if the site was associated with any historically significant individuals or historical events that would qualify the site for NRHP eligibility under Criteria A and B of the NRHP.															\$ 2,500	\$ 250		
6.4	Delineation of Waters of the United States: ENGINEER will provide professional services to delineate all waters of the United States, including wetlands, at the specified project site. ENGINEER's wetland ecologist will delineate the jurisdictional limits of the streams, and any on-channel ponds based on 33 CFR 328.3[e], delineate the jurisdictional limits of any potential wetlands based on the 1987 USACE Wetland Delineation Manual, the Great Plains Regional Supplement, and current Regulatory Guidance Letters. ENGINEER will record the boundaries of any potential jurisdictional waters with a sub-meter accurate Global Positioning System and on field maps that will be digitized for illustrations and calculations. This delineation map will be provided to the OWNER. 6.4.1 The deliverable for this task is a letter report that summarizes the delineation of the site															\$ 4,200	\$ 420		
6.5	Protected Species Habitat Assessment: This effort will include: 6.5.1 Coordinating with USFWS to determine the species listed in Denton County, habitat surveys for listed protected species and a report presenting the findings of the surveys. Research of available data will determine the listed species and their preferred habitat. 6.5.2 A brief letter report will be prepared summarizing the results of the survey. Specifically, the report will describe the habitats present on the site, the protected species that are listed in Denton County and their preferred habitats, and an evaluation of whether or not this preferred habitat is present on the site. 6.5.3 Species-specific surveys will not be covered in this scope of services, since they require substantial time throughout particular seasons using specific protocols. Habitat surveys are designed to determine whether the site contains preferred protected species habitat and the likelihood of the presence of that species.															\$ 3,000	\$ 300		
6.6	Section 404/Nationwide Permit Assessment: ENGINEER will utilize a previously conducted delineation to evaluate the proposed site plan to determine compliance with Section 404 of the CWA, specifically the NWP program. ENGINEER will evaluate the proposed project and what impacts the project has in waters of the United States to determine the USACE's scope and type of permit necessary for the impacts. Next ENGINEER will document the NWP terms and conditions, General Conditions, and Fort Worth District Regional Conditions for the applicable permit. Finally, ENGINEER will document how the proposed project complies with each of these conditions. ENGINEER will summarize the delineation, impact assessment, permit conditions, and compliance in a brief letter report.															\$ 1,500	\$ 150		
Subtotal Task 6.0 - Environmental Services		-	-	-	-	-	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,000	\$ 3,200	\$ 35,200	

ATTACHMENT B

Item No.	Task Description	\$450	\$360	\$345	\$300	\$315	PRIME CONSULTANT		\$190	\$120	LABOR TOTAL	2.86%	SUBCONSULTANT					TOTAL
		Project Principal	Technical Advisor	QA/QC Engineer	Sr. Engineer / Project Manager	Project Engineer	Design Engineer	Staff Engineer	Sr. Technician	Admin		Expenses	Survey/Easements - Spooner	SUE - CobbFendley	Geotechnical - Geotex	Environmental - IES	10% Markup	
7.0	Geotechnical Engineering																	
7.1-7.3	Field Services: ENGINEER will conduct a subsurface investigation program for no more than nineteen (19) borings at an average of 20 feet in depth along the pipeline alignment and one (1) boring at a depth of 50 feet at the lift station site. The recovered subsurface samples will be preserved and labeled as to the appropriate boring number and depth in the field. Laboratory Services: ENGINEER will conduct Selected laboratory testing of the recovered samples will be performed to evaluate soil index, volume change, and strength properties of the subsurface materials, and to provide data for analysis. Engineering Analysis and Report: ENGINEER will present data obtained from the field investigation and laboratory in a geotechnical data report.				4.0			8.0			\$ 2,600				\$ 24,900		\$ 2,490	
	Clearing for boring access (per day basis, 1 day anticipated)														\$ 2,200		\$ 220	
Subtotal Task 7.0 - Geotechnical Engineering		-	-	-	4.0	-	-	8.0	-	-	\$ 2,600	\$ -	\$ -	\$ -	\$ 27,100	\$ -	\$ 2,710	\$ 32,410
8.0	Subsurface Utility Engineering																	
8.1	QL "D" SUE				2.0			4.0			\$ 1,300			\$ 1,000			\$ 100	
8.2	QL "B" SUE (per day basis, 3.5 days)										\$ -			\$ 9,625			\$ 963	
8.2	Survey QL "B" SUE (per day basis, 2 days)										\$ -			\$ 4,400			\$ 440	
8.3	QL "A" SUE (per day basis, 3.5 days)				2.0			4.0			\$ 1,300			\$ 13,650			\$ 1,365	
8.3	Survey QL "A" SUE (per day basis, 1 day)										\$ -			\$ 2,200			\$ 220	
8.3	Coring/sawcutting and repairing pavement, up to 5 locations										\$ -			\$ 1,500			\$ 150	
Subtotal Task 8.0 - Subsurface Utility Engineering		-	-	-	4.0	-	-	8.0	-	-	\$ 2,600	\$ -	\$ -	\$ 32,375	\$ -	\$ -	\$ 3,238	\$ 38,213
9.0	Survey																	
9.1	Topographic Survey: Survey will horizontally and vertically locate visible surface features within the project area as shown in the OWNER-provided Project exhibit.												\$ 85,280				\$ 8,528	
9.2	Right-of-Way and Easement Instruments: Prepare metes and bounds descriptions with accompanying map exhibit for permanent and temporary instruments on a per instrument basis (up to 15).												\$ 22,425				\$ 2,243	
Subtotal Task 9.0 - Survey		-	-	-	-	-	-	-	-	-	\$ -	\$ -	\$ 107,705	\$ -	\$ -	\$ -	\$ 10,771	\$ 118,476
10.0	Construction Phase Services																	
10.1	Attend and participate in pre-construction meeting with OWNER and selected general contractor (assume attendance by maximum of two (2) ENGINEER representatives).				4.0	4.0					\$ 2,460	\$ 74					\$ -	
10.2	Review submittals delivered to ENGINEER by the selected general contractor for compliance and conformance with the contract documents (assume review of a maximum of 100 submittals, including re-submittal documents). Post formal written review responses in electronic format (PDF) via designated project FTP site for selected general contractor's use. Maintain submittal log, including current record of the submittals delivered and the status of the review of those submittals.		4.0	8.0	100.0	20.0	20.0	200.0			\$ 80,600	\$ 2,418					\$ -	
10.3	Review requests for information (RFI) by the selected general contractor (assume review of a maximum of 30 RFI) and prepare a response to the RFI providing interpretation of the contract documents. Inform OWNER of RFI, as well as ENGINEER's proposed response and recommended selected general contractor action, if applicable. Maintain RFI log, including current record of the RFIs received and the status of the response to those RFI.		4.0	8.0	30.0	30.0	30.0	60.0			\$ 40,800	\$ 1,224					\$ -	
10.4	Review change order requests by the selected general contractor (assume review of a maximum of 5 change orders). Prepare a response to the change order request providing interpretation of the contract documents and comments on the cost items. Inform OWNER of change order request, as well as ENGINEER's proposed response, including recommended acceptance or rejection of the proposed change order request by the OWNER (assume OWNER will be responsible for formally processing all accepted change orders). Maintain change order log, including current record of the change orders received, as well as the status and cost of all accepted change orders.		4.0	2.0	20.0	10.0	10.0				\$ 13,830	\$ 415					\$ -	
10.5	Review monthly applications for payment by selected general contractor following review by OWNER's designated onsite representative responsible for day-to-day construction observation (assume review of a maximum of 24 applications for payment). Provide comments, if applicable, and/or recommendation of payment by OWNER for items completed (assume OWNER will be responsible for formally processing all approved applications for payment). Maintain record of payments made to date, retainage amount, number and value of any change orders, any changes in the contract duration.				12.0	6.0	6.0				\$ 7,020	\$ 211					\$ -	
10.6	Attend monthly construction progress meetings (assume a maximum of 24 construction progress meetings will be held and that a maximum of two (2) ENGINEER representatives will attend each meeting).				72.0	36.0		36.0			\$ 39,240	\$ 1,177					\$ -	
10.7	Attend substantial completion walk-through with OWNER and selected general contractor (assume attendance by maximum of four (4) ENGINEER representatives).	4.0		4.0	12.0	12.0					\$ 10,560	\$ 317					\$ -	
10.8	Prepare comprehensive punch list of action items to be completed by the selected general contractor, based on issues identified during the substantial completion walk-through. Distribute electronic (PDF) punch list to OWNER, OWNER's designated onsite representative and selected general contractor.			2.0	4.0	8.0					\$ 4,410	\$ 132					\$ -	
10.9	Attend final completion walk-through and verify that all punch list items have been addressed by selected construction contractor (assume attendance by maximum of four (4) ENGINEER representatives).	4.0		4.0	8.0	8.0					\$ 8,100	\$ 243					\$ -	
10.10	Confirm that all items required under the terms of the contract as a condition of final payment issuance, including operation and maintenance manuals and as-built drawing markups, have been provided by selected general contractor. Recommend processing of final payment by OWNER.			2.0	4.0	4.0					\$ 3,150	\$ 95					\$ -	
10.11.1	Prepare construction as-built drawings using electronic redline drawings provided monthly by the selected general contractor. Submit as-built drawings to OWNER (provide one (1) full-size drawing set and electronic (PDF) file of all drawings on CD).			4.0	8.0	20.0	20.0	20.0	20.0		\$ 22,480	\$ 674					\$ -	
10.11.2	Prepare and submit project "Completion Notification" to TCEQ in accordance with prevailing Chapter 217 criteria (§217.13).				4.0	4.0				2.0	\$ 2,700	\$ 81					\$ -	
Subtotal Task 10.0 - Construction Phase Services		8.0	12.0	34.0	278.0	162.0	86.0	316.0	20.0	2.0	\$ 235,350	\$ 7,061	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 242,411
11.0 Additional Services at Request of City of Denton																		
Subtotal Task 11.0 - Additional Services at Request of City of Denton											\$ 100,000							\$ 100,000
TOTAL FEE (SPECIAL SERVICES)											\$ 863,850	\$ 22,760	\$ 107,705	\$ 32,375	\$ 27,100	\$ 32,000	\$ 19,919	\$ 1,105,709
Other Services																		
TOTAL FEE (OTHER SERVICES)											\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL FEE (BASIC + SPECIAL SERVICES)											\$ 2,261,315	\$ 64,684	\$ 107,705	\$ 32,375	\$ 27,100	\$ 32,000	\$ 19,919	\$ 2,545,098
TOTAL FEE (BASIC + SPECIAL + OTHER SERVICES)											\$ 2,261,315	\$ 64,684	\$ 107,705	\$ 32,375	\$ 27,100	\$ 32,000	\$ 19,919	\$ 2,545,098

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.

Lockwood, Andrews & Newman, 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.

N/A

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☒

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☒

No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐

Yes

☒

No

D. Describe each employment or business and family relationship with the local government officer named in this section.

N/A

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

DocuSigned by:

Justin Reeves

12/1/2025

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](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: 58E51D39-186F-4FAF-89D7-015798685483

Status: Sent

Subject: Please DocuSign: City Council Contract 8213-008 Robson West Lift Station

Source Envelope:

Document Pages: 59

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

erica.garcia@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

11/25/2025 11:46:35 AM

erica.garcia@cityofdenton.com

Signer Events

Signature

Timestamp

Erica Garcia

Completed

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erica.garcia@cityofdenton.com

Viewed: 11/25/2025 11:59:46 AM

Senior Buyer

Signed: 11/25/2025 12:01:21 PM

City of Denton

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Security Level: Email, Account Authentication
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Electronic Record and Signature Disclosure:

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Lori Hewell



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lori.hewell@cityofdenton.com

Viewed: 11/25/2025 4:55:51 PM

Purchasing Manager

Signed: 11/25/2025 4:57:20 PM

City of Denton

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

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Leah Bush



Sent: 11/26/2025 12:17:18 AM

Leah.bush@cityofdenton.com

Viewed: 12/1/2025 8:53:04 AM

Security Level: Email, Account Authentication
(None)

Signed: 12/1/2025 9:17:15 AM

Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

Accepted: 12/1/2025 8:53:04 AM

ID: 53c06162-27de-4958-b136-c87a1c07d229

Justin Reeves



Sent: 12/1/2025 9:17:19 AM

jreeves@lan-inc.com

Viewed: 12/1/2025 10:10:42 AM

Vice President

Signed: 12/1/2025 10:12:06 AM

Security Level: Email, Account Authentication
(None)

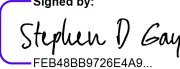
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Using IP Address: 170.85.100.173

Electronic Record and Signature Disclosure:

Accepted: 11/13/2025 9:05:09 PM

ID: 492e7b9d-6a1d-40d5-9e1e-9160ebc3f004

Signer Events	Signature	Timestamp
Stephen D Gay stephen.gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None)	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/1/2025 10:12:10 AM Viewed: 12/2/2025 7:50:27 AM Signed: 12/2/2025 7:53:38 AM

Electronic Record and Signature Disclosure:
Accepted: 12/2/2025 7:50:27 AM
ID: 862b30c8-7ef5-4cd0-9e86-8f02e53cc639

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

Sent: 12/2/2025 7:53:44 AM

Electronic Record and Signature Disclosure:
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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:
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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)

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

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Carbon Copy Events	Status	Timestamp
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: 12/2/2025 7:53:43 AM Viewed: 12/2/2025 2:20:27 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		
David Brown David.Brown@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/2/2025 10:49:22 AM ID: ae29c722-3235-4146-98a2-e5c5378d30ca		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/25/2025 11:59:37 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Quality Excavation, LLC, for the construction of the Riney Road East Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8775 – awarded to Quality Excavation, LLC, in the not-to-exceed amount of \$1,947,434.29).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

With the completion of the new Denton Independent School District (DISD) high school west of the intersection of Bronco Way and North Bonnie Brae Street, along with the new DISD elementary school to the east of the same intersection, City Staff have been directed to evaluate the potential construction of the undeveloped portions of Riney Road East, extending from Hardaway Road to US 77 (North Elm Street).

The Riney Road East Project will include the development of two (2) separate segments of concrete roadway. The primary segment, approximately 1,310 linear feet in length, will provide a widened connection to Elm Street (US77). The secondary segment, approximately 270 linear feet, will widen the roadway along the street frontage on both sides of Hardaway Road.

In addition to roadway improvements, the project will feature a 10-foot-wide concrete hike and bike trail linking the new DISD elementary school property to the City of Denton Northlakes Park trails system. This trail will incorporate a prefabricated pedestrian bridge to span an existing drainage swale and will connect a concrete walkway located west of the softball fields.

The Riney Road East Improvement Project has a total estimated project construction cost of \$1,947,434.29. This estimate includes a \$1,854,699.32 total base bid amount and a contingency of \$92,734.97. The contingency allowance is for the sole use of the City and will be subject to written authorization by the City's Project Manager and Program Manager.

Competitive Sealed Proposals were sent to 1,343 prospective suppliers, including 84 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Five (5) proposals were received and were evaluated based upon

published criteria, including key personnel, quality, reputation and ability to complete similar projects on schedule and within budget, safety record, detailed schedule and written plan, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Quality Excavation LLC was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	911, 912, 913, and 914
Notifications sent for Solicitation sent in IonWave:	1,343
Number of Suppliers that viewed Solicitation in IonWave:	35
HUB-Historically Underutilized Business Invitations sent out:	161
SBE-Small Business Enterprise Invitations sent out:	425
Responses from Solicitation:	5

RECOMMENDATION

Award a contract with Quality Excavation LLC, for the construction of the Riney Road East Improvement Project for the Capital Project Department, in a not-to-exceed amount of \$1,947,434.29.

PRINCIPAL PLACE OF BUSINESS

Quality Excavation LLC
Aubrey, TX

ESTIMATED SCHEDULE OF PROJECT

The work will be complete for final acceptance within 270 calendar days after the date when the contract time commences to run, which is the day indicated in the Notice to Proceed.

FISCAL INFORMATION

This item will be funded from Streets, Water, and Wastewater capital improvement accounts.

Streets Funding	350560402.1365.40100	\$1,733,886.32
Water Funding	630592523.1365.40100	\$65,813.00
Wastewater Funding	640543545.1365.40100	\$55,000.00

Requisition #173401 has been entered into the Purchasing software system in the amount of \$1,854,699.32. The budgeted amount for this item is \$1,947,434.29.

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: Jesus Perez, 940-349-7715.

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

Exhibit 2**CSP 8775 - Pricing Evaluation for Riney Road East Improvement**

Respondent's Business Name:	Quality Excavation, LLC	2L Construction LLC	Ed Bell Construction Company	Tiseo Paving Co.	Pavecon Public Works, LP
Principal Place of Business (City and State):	Aubrey, TX	Rhome, TX	Dallas, TX	Dallas, TX	Grand Prairie, TX
Description	Bid	Bid	Bid	Bid	Bid
Base Proposal Amount	\$1,854,699.32	\$1,954,344.45	\$2,389,515.30	\$2,915,328.10	\$2,395,545.50

5% Contingency:	\$92,734.97
Total Contract NTE Amount:	\$1,947,434.29

Evaluation					
Scoring Criteria	Quality Excavation, LLC	2L Construction LLC	Ed Bell Construction Company	Tiseo Paving Co.	Pavecon Public Works, LP
Offeror's Key Personnel - 10%	4.50	8.00	8.50	8.00	7.00
Quality, Reputation, and Ability to Complete Similar Projects on Schedule and Within Budget - 10%	6.50	8.00	8.50	7.00	6.00
Detailed Schedule and Written Plan - 25%	18.75	13.75	21.25	20.00	13.75
Offeror's Safety Record - 5%	3.50	4.25	3.25	1.75	3.00
Price, Total Cost of Ownership - 50%	50.00	47.45	38.81	31.81	38.71
Total Score - 100%	83.25	81.45	80.31	68.56	68.46

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH QUALITY EXCAVATION, LLC, FOR THE CONSTRUCTION OF THE RINEY ROAD EAST PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (CSP 8775 – AWARDED TO QUALITY EXCAVATION, LLC, IN THE NOT-TO-EXCEED AMOUNT OF \$1,947,434.29).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the construction of the Riney Road East Project for the Capital Projects 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 competitive sealed proposals; and

WHEREAS, this procurement was undertaken as part of the City’s governmental function [Street construction and design]; 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 competitive sealed proposal for materials, equipment, supplies, or services shown in the “Competitive Sealed 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 competitive sealed proposal.

<u>CSP</u> <u>NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8775	Quality Excavation, LLC	\$1,947,434.29

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 _____, 2026.

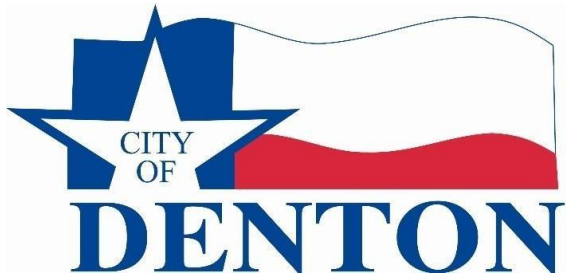
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

RFP	8775
File Name	Riney Road East Improvements
Purchasing Contact	Cori Power
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

SECTION 00 52 44**AGREEMENT - CSP**

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 Quality Excavation, 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:

Riney Road East Improvement Project

CSP# 8775 / 230013-1

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 One Million Eight Hundred Fifty-four Thousand Six Hundred Ninety-nine Dollars and Thirty-two Cents (\$1,854,699.32). At the sole option of the City, five (5) percent contingency in the amount of Ninety-two Thousand Seven Hundred Thirty-four Dollars and Ninety-seven Cents (\$92,734.97) may be used for a total not-to-exceed amount of One Million Nine Hundred Forty-seven Thousand Four Hundred Thirty-four Dollars and Twenty-nine Cents (\$1,947,434.29).

Article 4. CONTRACT TIME**4.1 Time is of the essence.**

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

4.2 Substantial Completion.

The Work will be Substantially Complete, as defined in the Supplementary Conditions, within 240 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.

4.3 Final Acceptance.

The Work will be complete for Final Acceptance within 270 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.

4.4 Liquidated Damages:

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

1. *Substantial Completion*: If the Contractor neglects, refuses, or fails to achieve Substantial Completion, as defined in the Supplementary Conditions, within the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.2, Contractor shall pay City Eight Hundred Dollars (\$800.00) for each day that expires after such time, until Substantial Completion is achieved.
2. *Final Acceptance*: If Contractor neglects, refuse, or fails to complete the Work within the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.3, for completion and readiness for Final Payment, Contractor shall pay City Eight Hundred Dollars (\$800.00) for each day that expires after such time, until the date determined by City as stated in the City-issued Letter of Final Acceptance.

Article 5. CONTRACT DOCUMENTS

5.1 CONTENTS:

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

1. Attachments to this Agreement:
 - a. Proposal Form
 - 1) Proposal Form
 - 2) Unit Price Proposal Form
 - 3) Vendor Compliance to State Law Non-Resident Offeror
 - 4) State and Federal documents (*project specific*)
 - b. Current Prevailing Wage Rate Table
 - c. Worker's Compensation Affidavit
 - d. General Conditions.
 - e. Supplementary Conditions.
2. The following located in File 8775 at:

<https://lfpubweb.cityofdenton.com/MaterialsManagement/Browse.aspx?id=19&dbid=0&repo=MaterialsManagement&cr=1>

 - a. Specifications described in the Table of Contents (Section 00 00 00) of the Project's Contract Documents.
 - b. Drawings.
 - c. Addenda.
 - d. Documentation submitted by Contractor prior to Notice of Award.

3. The following which shall be issued after the Effective Date of this Agreement and delivered to the City within ten (10) days of the Effective Date and before beginning Work:
 - a. Payment Bond
 - b. Performance Bond
 - c. Maintenance Bond
 - d. Power of Attorney for the Bonds
 - e. Form 1295 – Certificate of Interested Parties (email to City’s Materials Management department)
 - f. Insurance Certificate
4. Specifications specifically made a part of the Contract Documents by attachment or, if not attached, as incorporated by reference and described in the Table of Contents of the Project’s Contract Documents.
5. The following which may be delivered or issued after the Effective Date of the Agreement and, if issued, become an incorporated part of the Contract Documents:
 - a. Notice to Proceed.
 - b. Field Orders.
 - c. Change Orders.
 - d. Letter of Final Acceptance.

Article 6. INDEMNIFICATION

6.1 Contractor covenants and agrees to indemnify, hold harmless and defend, at its own EXPENSE, THE CITY, ITS OFFICERS, ELECTED AND APPOINTED OFFICIALS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS FOR PERSONAL INJURY OR DEATH, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN CONNECTION WITH 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. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.

6.2 CONTRACTOR COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE CITY, ITS OFFICERS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS FOR, LOSS OF, DAMAGE TO, OR DESTRUCTION OF, PROPERTY OF THE CITY OR OF A THIRD PARTY, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, RELATED TO OR IN CONNECTION WITH 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. THIS INDEMNITY PROVISION IS INTENDED TO INCLUDE, WITHOUT LIMITATION, INDEMNITY FOR ANY AND ALL COSTS, EXPENSES AND LEGAL FEES INCURRED BY THE CITY IN DEFENDING AGAINST SUCH CLAIMS AND CAUSES OF ACTIONS.

Article 7. MISCELLANEOUS

7.1 Capitalized Terms.

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

7.2 Assignment of Contract.

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

7.3 Successors and Assigns.

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

7.4 Severability.

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

7.5 Venue and Waiver of Sovereign Immunity.

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

7.6 Authority to Sign.

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

7.7 Prohibition on Contracts with Companies Boycotting Israel.

Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the 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.

7.8 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.

7.9 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.

7.10 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.

7.11 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.

7.12 Immigration Nationality Act.

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

7.13 No Third-Party Beneficiaries.

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

7.14 No Cause of Action Against Engineer.

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

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
5 CITY OF DENTON
6
7

8 BY: _____
9

10 TITLE: _____
11

12 DATE: _____
13
14

15
16 CONTRACTOR
17 QUALITY EXCAVATION, LLC
18

19 THIS AGREEMENT HAS BEEN
20 BOTH REVIEWED AND APPROVED
21 as to financial and operational obligations and
22 business terms.
23

Signed by:
BY: Jason Roberts
1617E2547164B3A2C
AUTHORIZED AGENT

Signed by:
Seth Garcia
SIGNATURE 1617E2547164B3A2C
Seth Garcia
PRINTED NAME

Jason Roberts
NAME

Director of Capital Projects
TITLE

Jason Roberts/V.P.
TITLE

Capital Projects
DEPARTMENT

903-815-8842
PHONE NUMBER

38 ATTEST:
39 INGRID REX, CITY SECRETARY
40
41
42 _____
43
44

50
51
52 2025-1398481
53 TEXAS ETHICS COMMISSION
54 1295 CERTIFICATE NUMBER

45 APPROVED AS TO LEGAL FORM:
46 MACK REINWAND, CITY ATTORNEY
47

Signed by:
Leah Bush
2A936B08B5D7485...

SECTION 00 41 01
PROPOSAL FORM - CSP

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

FOR: *Riney Road East Improvement Project*

1 Enter into Agreement

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

2 OFFEROR Acknowledgements and Certification

- 2.1 In submitting this Proposal, Offeror accepts all of the terms and conditions of the INVITATION TO OFFERORS and INSTRUCTIONS TO OFFERORS, including without limitation those dealing with the disposition of Offeror's Bond.
- 2.2 Offeror 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 Offeror certifies that this Proposal 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 Offeror has not directly or indirectly induced or solicited any other Offeror to submit a false or sham Proposal.
- 2.5 Offeror has not solicited or induced any individual or entity to refrain from proposing.
- 2.6 Offeror 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 proposal process.
 - b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the proposal process to the detriment of City (b) to establish proposal 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 Offerors, with or without the knowledge of City, a purpose of which is to establish proposal 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 proposal process or affect the execution of the Contract.

2.7 The Offeror 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 Substantially Complete as defined in the Supplementary Conditions within 240 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 The Work will be complete for Final Acceptance within 270 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.

3.3 Offeror accepts the provisions of the Agreement as to Liquidated Damages in the event of failure to obtain Milestones (if applicable), Substantial Completion, and Final Acceptance within the times specified in the Agreement.

4 Attached to this Proposal

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

- a. Section 00 35 14 – Conflict of Interest Affidavit – CSP
- b. Section 00 41 01 – This Proposal Form – CSP
- c. **Section 00 42 44 – Unit Price Proposal Form – CSP – Excel Electronic Copy (either included in the hard copy Proposal, or submitted via Ionwave)**
- d. Section 00 43 14 – Required Offeror's Bond – CSP, issued by a surety meeting the requirements of Paragraph 6.01 of the General Conditions.
- e. Section 00 43 38 – Proposed Subcontractors Form – CSP
- f. Section 00 43 39 – Vendor Compliance to State Law Non-Resident Offeror – CSP
- g. Section 00 45 14 – Safety Record Questionnaire – CSP
- h. Section 00 45 27 – Contractor Compliance with Workers Compensation Law – CSP
- i. Section 00 45 44 – Corporate Resolution of Authorized Signatories – CSP
- j. Any additional documents required by Paragraph 12 of Section 00 21 16 – Instructions to Offerors

5 Total Proposal Amount

5.1 Offeror will complete the Work in accordance with the Contract Documents for the following proposal amount. In the space provided below, please enter the total proposed amount for this project. This figure will be read publicly by the City at the proposal opening.

5.2 It is understood and agreed by the Offeror in signing this proposal that the total proposed amount entered below is subject to verification and/or modification by multiplying the unit prices for each pay item by the respective estimated quantities shown in this proposal and then totaling all of the extended amounts.

Total Proposal Amount:

\$ 1,875,503.82

6 Proposal Submittal

6.1 It is understood by Offeror that submission of the total proposal amount is only one of the factors for the City's evaluation process, and that any award of contract will be based on the complete evaluation of the Proposal and Offeror by City under the terms provided in the Instructions to Offerors or any validly issued amendments or addenda.

6.2 This Proposal is submitted on October 15, 20 25 by the entity named below.

Respectfully submitted,

By:

(Signature)

Jason Roberts

(Printed Name)

Title: Jason Roberts

Company: Quality Excavation

Address: 104 Redfearn Rd.
Aubrey, TX, 76227

State of Incorporation: Texas

Email: estimating@qualityexcavationltd.com

Phone: 940-365-0800

Receipt is acknowledged of the following Addenda:	Initial
Addenda No. 1:	
Addenda No. 2:	
Addenda No. 3:	
Addenda No. 4:	
Addenda No. 5:	

END OF SECTION

BAFO PROPOSAL FORM ATTACHMENT

To: Cori Power
c/o: Purchasing Division
901-B Texas Street
Denton, Texas 76209

FOR: CSP 8775 – Riney Road East Improvement

The undersigned Offeror hereby submits this Proposal Form Revision and Best and Final Offer (this “BAFO”) for *CSP 8775 – Riney Road East Improvement* and confirms that this BAFO Proposal is based on the project requirements per the CSP documents and any subsequent addenda.

1 Total BAFO Proposal Amount

1.1 Offeror will complete the Work in accordance with the Contract Documents for the following BAFO proposal amount. In the space provided below, please enter the total proposed BAFO amount for this project.

1.2 It is understood and agreed by the Offeror in signing this proposal that the total proposed BAFO amount entered below is subject to verification and/or modification by multiplying the unit prices for each pay item by the respective estimated quantities shown in this proposal and then totaling all of the extended amounts.

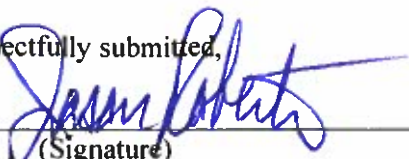
Total BAFO Proposal Amount: \$ 1,854,699.32

2 BAFO Proposal Submittal

2.1 It is understood by Offeror that submission of the total BAFO proposal amount is only one of the factors for the City’s evaluation process, and that any award of contract will be based on the complete evaluation of the Proposal and Offeror by City under the terms provided in the Instructions to Offerors or any validly issued amendments or addenda.

2.2 This BAFO Proposal is submitted on Nov 6, 20 25 by the entity named below.

Respectfully submitted,

By: 
(Signature)

Jason Roberts
(Printed Name)

Title: Vice President

Company: Quality Excavation

52 Address: 104 Redfearn Rd

53 Aubrey, TX 76227

54 State of Incorporation: TX

55 Email: jasonr@qualityexcavationltd.com

56 Phone: 903-815-8842

57

58 **END OF SECTION**

BAFO UNIT PRICE PROPOSAL FORM - CSP

To:

City of Denton - Capital Projects

From: Quality Excavation

901-B Texas Street

104 Redfearn Rd.

Denton, TX 76209

Aubrey, TX 76227

Purchasing Dept.

Jason Roberts

940-365-0800

PROJ.: **Riney Road East Improvement Project**

estimating@qualityexcavationltd.com

RFP: 8775

ENG
PMO: 230013-1**OFFEROR'S APPLICATION - UNIT PRICE PROPOSAL**

Item No.	Spec. Section No.	Description	UOM	BID QTY	BAFO Unit Price	BAFO Extended Price
1	01 70 00	0170.001 - Mobilization	LS	1	\$ 180,000.00	\$ 180,000.00
2	31 00 00	3100.001 - Site Preparation	LS	1	\$ 65,000.00	\$ 65,000.00
3	01 58 13	0158.001 - Temporary Project Sign	EA	2	\$ 583.84	\$ 1,167.68
4	31 23 16	3123.001 - Unclassified Excavation	CY	2,801	\$ 15.75	\$ 44,115.75
5	02 41 15	0241.106 - Remove Asphalt Pavement	SY	89	\$ 11.50	\$ 1,023.50
6	02 41 15	0241.101 - Remove Concrete Pavement	SY	460	\$ 14.50	\$ 6,670.00
7	02 41 15	0241.107 - Remove Driveway	SY	297	\$ 7.25	\$ 2,153.25
8	02 41 15	0241.104 - Remove Sidewalk	SY	221	\$ 8.00	\$ 1,768.00
9	02 41 15	0241.102 - Remove Concrete Curb and Gutter	LF	407	\$ 3.60	\$ 1,465.20
10	02 41 13	0241.002 - Remove Fence	LF	287	\$ 3.55	\$ 1,018.85
11	02 41 13	0241.004 - Remove Mailbox	EA	6	\$ 36.00	\$ 216.00
12	34 41 50	3441.188 - Remove Sign Panel and Post	EA	4	\$ 50.00	\$ 200.00
13	02 41 14	0241.094 - Salvage Fire Hydrant	EA	5	\$ 715.00	\$ 3,575.00
14	31 14 40	3314.407 - Fire Hydrant Assembly	EA	5	\$ 3,700.00	\$ 18,500.00
15	02 41 14	0241.095 - Salvage Water Meter	EA	8	\$ 1,850.00	\$ 14,800.00
16	02 41 14	0241.056 - Remove 6" Water Valve	EA	1	\$ 495.00	\$ 495.00
17	33 14 20	3314.327 - 6" Gate Valve	EA	1	\$ 2,325.00	\$ 2,325.00
18	33 01 50	3301.062 - Valve Box Adjustment	EA	5	\$ 620.00	\$ 3,100.00
19	33 01 50	3301.065 - Miscellaneous Structure Adjustment	EA	1	\$ 2,650.00	\$ 2,650.00
20	33 01 50	3301.058 - Manhole Adjustment, Minor	EA	3	\$ 2,100.00	\$ 6,300.00
21	32 11 29	3211.036 - 12" Lime Treatment	SY	3,158	\$ 26.00	\$ 82,108.00
22	32 11 29	3211.034 - 8" Lime Treatment	SY	600	\$ 20.50	\$ 12,300.00
23	999.005	9999.005 - 2" Sand Cushion or Compacted Flexbase Subgrade Trails/Sidewalks - (ADDENDUM 2)	SY	3,510	\$ 11.00	\$ 38,610.00
24	32 16 13	3216.026 - 8" Concrete Driveway	SY	573	\$ 110.00	\$ 63,030.00
25	32 16 13	3216.007 - 6" Concrete Sidewalk	SY	3,343	\$ 54.50	\$ 182,193.50
26	32 13 13	3213.005 - 10" Concrete Pavement	SY	3,007	\$ 111.00	\$ 333,777.00
27	32 13 13	3213.002 - 7" Concrete Pavement	SY	186	\$ 119.00	\$ 22,134.00
28	32 12 16	3212.010 - Asphalt Pavement (SY), TY D, SAC-A, PG64-22, 6"	SY	14	\$ 80.00	\$ 1,120.00
29	32 16 13	3216.002 - 6" Concrete Curb and Gutter	LF	1,771	\$ 17.00	\$ 30,107.00
30	32 16 13	3216.013 - Curb Ramp, TY II	EA	2	\$ 1,250.00	\$ 2,500.00
31	32 16 13	3216.011 - Curb Ramp, TY IA	EA	7	\$ 1,700.00	\$ 11,900.00
32	32 13 13	3213.007 - 12" Concrete Pavement	SY	8	\$ 195.00	\$ 1,560.00
33	32 31 00	3231.002 - 6' Chain Link Fence	LF	215	\$ 46.00	\$ 9,890.00
34	32 31 00	3231.033 - 6'X8' Chain Link Gate	EA	2	\$ 920.00	\$ 1,840.00
35	999.001	9999.001 - INSTALL 2" HANDRAIL ALONG HEADWALL	LF	46	\$ 364.00	\$ 16,744.00
36	33 14 11	3314.138 - 6" PVC Water Pressure Pipe	LF	29	\$ 100.00	\$ 2,900.00
37	33 14 17	3314.310 - 1" Water Service	LF	14	\$ 865.00	\$ 12,110.00
38	33 31 14	3341.045 - 8" PVC Gravity Sewer Pipe	LF	305	\$ 102.00	\$ 31,110.00
39	33 05 61	3305.126 - 4' Concrete Manhole	EA	2	\$ 7,281.00	\$ 14,562.00
40	33 31 16	3331.085 - 4" Sewer Service	EA	2	\$ 1,330.00	\$ 2,660.00
41	33 42 11	3342.004 - 15" Reinforced Concrete Pipe, Class III	LF	44	\$ 107.00	\$ 4,708.00
42	33 42 11	3342.007 - 18" Reinforced Concrete Pipe, Class III	LF	117	\$ 153.00	\$ 17,901.00
43	33 42 11	3342.010 - 21" Reinforced Concrete Pipe, Class III	LF	18	\$ 160.00	\$ 2,880.00
44	33 42 11	3342.060 - 6'X2' Reinforced Concrete Box	LF	40	\$ 390.00	\$ 15,600.00
45	33 42 33	3342.385 - 10' Recessed Curb Inlet	EA	2	\$ 7,100.00	\$ 14,200.00
46	33 42 33	3342.379 - 10' Standard Curb Inlet	EA	1	\$ 5,850.00	\$ 5,850.00

SECTION 00 43 39**VENDOR COMPLIANCE TO STATE LAW NON-RESIDENT OFFEROR - CSP**

Texas Government Code Chapter 2252 was adopted for the award of contracts to nonresident offerors. This law provides that, in order to be awarded a best value contract where the offeror also offered the lowest proposal price, nonresident offerors (out-of-state contractors whose corporate offices or principal place of business are outside the State of Texas) propose on projects for construction, improvements, supplies or services in Texas at an amount lower than the lowest Texas resident offeror by the same amount that a Texas resident offeror would be required to underbid a nonresident offeror in order to obtain a comparable contract in the State which the nonresident's principal place of business is located.

The appropriate blanks in Section A must be filled out by all nonresident offerors in order for your proposal to meet specifications. The failure of nonresident offerors to do so will automatically disqualify that offeror. Resident offerors must check the box in Section B.

A. Nonresident offerors in the State of _____, our principal place of business, are required to be _____ percent lower than resident offerors by State Law. A copy of the statute is attached.

Nonresident offerors in the State of _____, our principal place of business, are not required to underbid resident Offerors.

B. The principal place of business of our company or our parent company or majority owner is in the State of Texas. ☒

OFFEROR:

Quality Excavation
Company

104 Redfearn Rd.
Address

Aubrey, TX, 76227
City/State/Zip

By: Jason Roberts

(Please Print)

Signature:

Title: Vice President

(Please Print)

Date: 10/15/2025

END OF SECTION

"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).

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:	. 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.
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:	. 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>.

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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:

Branch of Construction Wage Determinations
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.

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END OF GENERAL DECISION"

"General Decision Number: TX20250294 09/19/2025

State: Texas

Construction Type: Highway

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

HIGHWAY CONSTRUCTION PROJECTS

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).

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:	◆ 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.
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:	◆ 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 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>.

SATX2025-007 11/15/2023

	Rates	Fringes
Asphalt Distributor Operator.....	\$ 24.40	0.00
Asphalt Paving Machine Operator.....	\$ 22.52	0.00
Asphalt Raker.....	\$ 19.87	0.00
Broom or Sweeper Operator.....	\$ 18.01	0.00
Concrete Finisher, Paving and Structures.....	\$ 22.48	0.00
Concrete Pavement Finishing Machine Operator.....	\$ 24.07	0.00
Concrete Saw Operator.....	\$ 20.34	0.00
Crane Operator, Hydraulic 80 tons or less.....	\$ 31.32	0.00
Crane Operator, Lattice Boom 80 Tons or Less.....	\$ 29.90	0.00
Crane Operator, Lattice Boom Over 80 Tons.....	\$ 33.55	0.00
Crawler Tractor Operator.....	\$ 24.06	0.00
Electrician.....	\$ 36.10	0.00
Excavator Operator, 50,000 pounds or less.....	\$ 25.08	0.00
Excavator Operator, Over 50,000 pounds.....	\$ 25.34	0.00
Flagger.....	\$ 14.80 **	0.00
Form Builder/Setter, Structures.....	\$ 22.50	0.00
Form Setter, Paving & Curb.....	\$ 20.89	0.00
Foundation Drill Operator, Crawler Mounted.....	\$ 29.25	0.00
Foundation Drill Operator, Truck Mounted.....	\$ 29.86	0.00
Front End Loader Operator, 3 CY or Less.....	\$ 20.93	0.00
Front End Loader Operator, Over 3 CY.....	\$ 22.56	0.00
Laborer, Common.....	\$ 18.01	0.00
Laborer, Utility.....	\$ 19.32	0.00
Loader/Backhoe Operator.....	\$ 23.22	0.00

Mechanic.....	\$ 27.44	0.00
Milling Machine Operator.....	\$ 20.94	0.00
Motor Grader Operator, Fine Grade.....	\$ 27.09	0.00
Motor Grader Operator, Rough.....	\$ 24.90	0.00
Off Road Hauler.....	\$ 23.70	0.00
Pavement Marking Machine Operator.....	\$ 22.35	0.00
Pipelayer.....	\$ 22.46	0.00
Reclaimer/Pulverizer Operator....	\$ 22.17	0.00
Reinforcing Steel Worker.....	\$ 23.50	0.00
Roller Operator, Asphalt.....	\$ 20.35	0.00
Roller Operator, Other.....	\$ 18.60	0.00
Scraper Operator.....	\$ 21.54	0.00
Servicer.....	\$ 24.86	0.00
Sign Erector.....	\$ 18.01	0.00
Small Slipform Machine Operator.....	\$ 25.09	0.00
Spreader Box Operator.....	\$ 23.59	0.00
Telecommunication Technician.....	\$ 23.14	0.00
Truck Driver Lowboy Float.....	\$ 25.57	0.00
Truck Driver, Single Axle.....	\$ 20.60	0.00
Truck Driver, Single or Tandem Axle Dump Truck.....	\$ 22.64	0.00
Truck Driver, Tandem Axle Tractor with Semi Trailer.....	\$ 23.22	0.00
Truck Driver, Transit-Mix.....	\$ 21.97	0.00
Welder.....	\$ 23.72	0.00
Work Zone Barricade Servicer.....	\$ 18.01	0.00

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

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** 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:

Branch of Construction Wage Determinations
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"

SECTION 00 45 27

CONTRACTOR COMPLIANCE WITH WORKER'S COMPENSATION LAW - CSP

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 *Riney Road East Improvement Project*. 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.

CONTRACTOR:

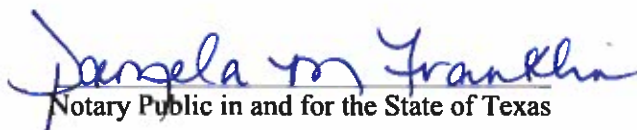
<u>Quality Excavation</u> Company <u>104 Redfearn Rd.</u> Address <u>Aubrey, TX, 76227</u> City/State/Zip	By: <u>Jason Roberts</u> (Please Print) Signature:  Title: <u>Vice President</u> (Please Print)

THE STATE OF TEXAS §

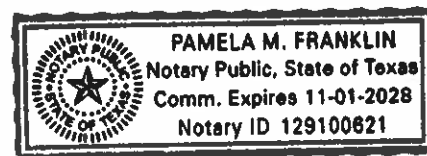
COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared Jason Roberts, 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 Quality Excavation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of October, 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, format 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 a minimum value as outlined in Section 00 43 38 - Proposed Subcontractors Form, unless 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. TheThe 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 1313.08, 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.

SECTION 00 73 01
SUPPLEMENTARY CONDITIONS - CSP
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-1.01 “Defined Terms”

The following Terms listed in the General Conditions are modified as follows:

Bid – See Proposal.

Bidder – See Offeror.

Bidding Documents – See Proposal Documents.

Bidding Requirements – See Proposal Requirements.

The following Terms are added to the General Conditions as follows:

Competitive Sealed Proposals – A procurement method by which a governmental entity requests proposals, evaluates and ranks the Offerors, and negotiates a contract with a general contractor for the construction, rehabilitation, alteration, or repair of a facility.

Daily Value – The City-determined value in dollars as indicated in the Proposal Form as the value of one Day for the purposes of determining the Incentive (if applicable) for Substantial Completion relative to the Contract Time and achievement of Substantial Completion.

Offeror – The individual or entity that submits a Proposal directly to City.

Proposal – The offer or proposal of an Offeror submitted in accordance with the requirements set forth in the Instructions to Offerors.

Proposal Documents – The Proposal Requirements and the Proposed Contract Documents.

Proposal Requirements – The Advertisement or Invitation to Offerors, Instructions to Offerors, Offeror’s Bond or other Proposal security, if any, the Proposal Form, and the Proposal with any attachments.

Substantial Completion – The completion of the Work necessary for the project to function as it was intended pursuant to the Contract Documents and as specified below, to the reasonable satisfaction of the City. The date of Substantial Completion shall be memorialized by written notice given by the City to the Contractor.

SC-5.01A

Easement limits shown on the Drawing are approximate and were provided to establish a basis for proposals. 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 05/30/2025

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

PARCEL NUMBER	OWNER	TARGET DATE OF POSSESSION

NONE

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

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

SC-5.01A.2, “Availability of Lands”

Utilities or obstructions to be removed, adjusted, and/or relocated

The following is list of utilities and/or obstructions that have not been removed, adjusted, and/or relocated as of 05/30/2025

EXPECTED OWNER	UTILITY AND LOCATION	TARGET DATE OF ADJUSTMENT

CABLE OR SPECTRUM FIBER	NORTHEAST CORNER OF RINEY ROAD AND HARDAWAY ROAD	TBD

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

SC-5.03A., “Subsurface and Physical Conditions”

The following are reports of explorations and tests of subsurface conditions at the site of the Work:

CITY OF DENTON
STANDARD CONSTRUCTION SPECIFICATION DOCUMENTS
Revised July 11, 2023
Effective July 11, 2023

CSP 8775
Engineering Project Number 230013-1

1
2 A *Geotechnical Engineering Report* Report No. 63:1973, dated February 2, 2024, prepared by *ECS*
3 *Southwest, LLP*, a sub-consultant of *Binkley & Berfield | DCCM*, a consultant of the City, providing
4 additional information on *subsurface soil conditions*.

5
6 The following are drawings of physical conditions in or relating to existing surface and subsurface
7 structures (except Underground Facilities) which are at or contiguous to the site of the Work:
8 *[None]*
9

10 **SC-5.05 A., "Underground Facilities"**

11
12 The following are additional resources for identification of Underground Facilities which are at or
13 contiguous to the site of the Work, and which are not necessarily shown in the Drawings:
14 *[None]*
15

16 **SC-5.06A., "Hazardous Environmental Conditions at Site"**

17
18 The following are reports and drawings of existing hazardous environmental conditions known to the City:
19 *[None]*
20

21 **SC-6.02, "Performance, Payment, and Maintenance Bonds"**

22
23 The "Contract Price" for Performance, Payment, and Maintenance Bonds will be the same as
24 indicated in Article 3 as listed in the Agreement.
25

26 **SC-6.03A., "Certificates of Insurance"**

27
28 The entities listed below are "additional insureds as their interest may appear" including their respective
29 officers, directors, agents and employees.
30

- 31 (1) City
32 (2) Consultant: BinkleyBarfield | DCCM
33 (3) Other: *[None]*
34

35 **SC-6.04A., "Contractor's Insurance"**

36
37 The limits of liability for the insurance required by Paragraph GC-6.04 shall provide the following
38 coverages for not less than the following amounts or greater where required by laws and regulations:
39

40 **6.04A. Workers' Compensation, under Paragraph GC-6.04A.**

41
42 *Statutory limits*
43 *Employer's liability*
44 *\$100,000 each accident/occurrence*
45 *\$100,000 Disease - each employee*
46 *\$500,000 Disease - policy limit*
47

48 **SC-6.04B., "Contractor's Insurance"**

49
50 **6.04B. Commercial General Liability, under Paragraph GC-6.04B. Contractor's Liability Insurance**
51 **under Paragraph GC-6.04B., which shall be on a per project basis covering the Contractor with**
52 **minimum limits of:**
53

54 *\$1,000,000 each occurrence*

\$2,000,000 aggregate limit

The policy must have an endorsement (Amendment – Aggregate Limits of Insurance) making the General Aggregate Limits apply separately to each job site.

The Commercial General Liability Insurance policies shall provide “X”, “C”, and “U” coverage’s. Verification of such coverage must be shown in the Remarks Article of the Certificate of Insurance.

SC 6.04C., “Contractor’s Insurance”

6.04C. Automobile Liability, under Paragraph GC-6.04C. Contractor’s Liability Insurance under Paragraph GC-6.04C., which shall be in an amount not less than the following amounts:

- (1) **Automobile Liability** - a commercial business policy shall provide coverage on "Any Auto", defined as autos owned, hired and non-owned.

\$1,000,000 each accident on a combined single limit basis. Split limits are acceptable if limits are at least:

SC-6.04D., “Contractor’s Insurance”

The Contractor’s construction activities will require its employees, agents, subcontractors, equipment, and material deliveries to cross railroad properties and tracks, or perform work within 25 feet of the center line of tracks “None”.

The Contractor shall conduct its operations on railroad properties in such a manner as not to interfere with, hinder, or obstruct the railroad company in any manner whatsoever in the use or operation of its/their trains or other property. Such operations on railroad properties may require that Contractor to execute a “Right of Entry Agreement” with the particular railroad company or companies involved, and to this end the Contractor should satisfy itself as to the requirements of each railroad company and be prepared to execute the right-of-entry (if any) required by a railroad company. The requirements specified herein likewise relate to the Contractor’s use of private and/or construction access roads crossing said railroad company’s properties.

The Contractual Liability coverage required by Paragraph 5.04D of the General Conditions shall provide coverage for not less than the following amounts, issued by companies satisfactory to the City and to the Railroad Company for a term that continues for so long as the Contractor’s operations and work cross, occupy, or touch railroad property:

- (1) General Aggregate:

- (2) Each Occurrence:

____ Required for this Contract

X Not required for this Contract

With respect to the above outlined insurance requirements, the following shall govern:

1. Where a single railroad company is involved, the Contractor shall provide one insurance policy in the name of the railroad company. However, if more than one grade separation or at-grade crossing is affected by the Project at entirely separate locations on the line or lines of the same railroad company, separate coverage may be required, each in the amount stated above.

2. Where more than one railroad company is operating on the same right-of-way or where several railroad companies are involved and operated on their own separate rights-of-way, the Contractor may be required to provide separate insurance policies in the name of each railroad company.
3. If, in addition to a grade separation or an at-grade crossing, other work or activity is proposed on a railroad company's right-of-way at a location entirely separate from the grade separation or at-grade crossing, insurance coverage for this work must be included in the policy covering the grade separation.
4. If no grade separation is involved but other work is proposed on a railroad company's right-of-way, all such other work may be covered in a single policy for that railroad, even though the work may be at two or more separate locations.

No work or activities on a railroad company's property to be performed by the Contractor shall be commenced until the Contractor has furnished the City with an original policy or policies of the insurance for each railroad company named, as required above. All such insurance must be approved by the City and each affected Railroad Company prior to the Contractor's beginning work.

The insurance specified above must be carried until all Work to be performed on the railroad right-of-way has been completed and the grade crossing, if any, is no longer used by the Contractor. In addition, insurance must be carried during all maintenance and/or repair work performed in the railroad right-of-way. Such insurance must name the railroad company as the insured, together with any tenant or lessee of the railroad company operating over tracks involved in the Project.

SC 6.04F., "Contractor's Insurance"

Add Paragraph 6.04F. Environmental Impairment/Pollution Insurance to include coverage for the handling, receiving, dispensing, removal, storage, testing, transportation, disposal, discharge, dispersal release or escape of any hazardous material into or upon land, or any structure on land, the atmosphere or any watercourse or body of water, including ground water, with a minimum combined bodily injury (including death) and property damage limit of \$2,000,000 per occurrence to be obtained upon substantial completion and acceptance of facility by the City.

SC-7.08C., "Concerning Subcontractors and Suppliers"

The following subcontractors shall be required to be utilized by the Contractor for specific portions of the Work as indicated below:

Required Subcontractors

SUBCONTRACTOR COMPANY NAME	DESCRIPTION OF WORK TO BE PERFORMED
None	

SC-7.11., "Permits and Utilities"

SC-7.11A., "Contractor obtained permits and licenses"

The following are known permits and/or licenses required by the Contract to be acquired by the Contractor:

1. *SWPPP with NOI to TCEQ*

SC-7.11B. "City obtained permits and licenses"

The following are known permits and/or licenses required by the Contract to be acquired by the City:

2. *TxDOT Right-of-Way Permit for work within US 77 on east end of project.*

SC-7.11C. “Outstanding permits and licenses”

The following is a list of known outstanding permits and/or licenses to be acquired, if any as of [TxDOT Permit, 04/04/2025]:

Outstanding Permits and/or Licenses to Be Acquired

OWNER	PERMIT OR LICENSE AND LOCATION	TARGET DATE OF POSSESSION

TxDOT Permit	Riney Road and US 77	6/7/2025

SC-8.02., “Coordination”

The individuals or entities listed below have contracts with the City for the performance of other work at the Site:

Vendor	Scope of Work	Coordination Authority
None		

SC-9.01, “Communications to Contractor”

Contact Spectrum for relocation of fiber optic cable box at northeast corner of Riney and Hardaway Roads. Notify City Parks Department seven days (7) prior to starting work on hike and bike trail. All work in City park area shall be coordinated with City Parks Department.

SC-10.01B., “City’s Project Manager”

The City’s Project Manager for this Contract is *Jesus Perez*, 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.

END OF SECTION

Revision Log		
DATE	NAME	SUMMARY OF CHANGE

1
2SECTION 00 35 14
CONFLICT OF INTEREST AFFIDAVIT - CSP**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.**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

Signature of vendor doing business with the governmental entity

10/15/2025

Date

3

END OF SECTION

Certificate Of Completion

Envelope Id: 1771ED6C-225B-41E7-820C-92A523F5B857

Status: Sent

Subject: Please DocuSign: City Council Contract 8775 - Riney Road East Improvements

Source Envelope:

Document Pages: 107

Signatures: 3

Envelope Originator:

Certificate Pages: 6

Initials: 1

Cori Power

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

cori.power@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Cori Power

Location: DocuSign

12/10/2025 10:32:54 AM

cori.power@cityofdenton.com

Signer Events

Signature

Timestamp

Cori Power

Completed

Sent: 12/10/2025 10:38:38 AM

cori.power@cityofdenton.com

Viewed: 12/10/2025 10:38:48 AM

Purchasing Supervisor

Signed: 12/10/2025 10:39:05 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: 12/10/2025 10:39:08 AM

lori.hewell@cityofdenton.com

Viewed: 12/10/2025 1:26:23 PM

Purchasing Manager

Signed: 12/10/2025 1:41:39 PM

City of Denton

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Leah Bush



Sent: 12/10/2025 2:03:22 PM

leah.bush@cityofdenton.com

Viewed: 12/11/2025 10:50:30 AM

Security Level: Email, Account Authentication (None)

Signed: 12/11/2025 2:22:39 PM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Accepted: 12/11/2025 10:50:30 AM

ID: 2daacb67-7f8d-42d6-a481-24a73638e393

Jason Roberts



Sent: 12/11/2025 2:22:41 PM

jasonr@qualityexcavationltd.com

Viewed: 12/12/2025 7:47:25 AM

Jason Roberts/V.P.

Signed: 12/12/2025 7:48:12 AM

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 173.219.29.14

Electronic Record and Signature Disclosure:

Accepted: 12/12/2025 7:47:25 AM

ID: 1b70b115-5dfa-433e-992e-cb70bde64536

Signer Events	Signature	Timestamp
Seth Garcia Seth.Garcia@cityofdenton.com Director of Capital Projects Security Level: Email, Account Authentication (None)	Signed by:  A13701F6BC954FC... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/12/2025 7:48:15 AM Viewed: 12/12/2025 7:58:48 AM Signed: 12/12/2025 7:59:06 AM

Electronic Record and Signature Disclosure:
Accepted: 12/12/2025 7:58:48 AM
ID: 8ace6a55-343b-4c18-9537-943c62cda784

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

Sent: 12/12/2025 7:59:10 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

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: 12/10/2025 10:39:09 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)

COPIED

Sent: 12/10/2025 2:03:24 PM

Carbon Copy Events	Status	Timestamp
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: 12/12/2025 7:59:09 AM Viewed: 12/15/2025 9:34:35 AM
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		
Jesus Perez Jesus.Perez@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 12/10/2025 5:19:04 PM ID: c206d04e-37e2-4b1f-8a3f-2fbaf3a184b5		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/10/2025 10:38:38 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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.

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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..

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To withdraw your consent with City of Denton

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

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- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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- 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 Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive proposals under RFP 8879 for DEC Engine Maintenance Spare Parts and Services for the Denton Energy Center; and providing an effective date (RFP 8879).

INFORMATION/BACKGROUND

The City of Denton solicited proposals for engine spare parts and services for the 12 Wartsila engines located at the Denton Energy Center. In efforts to source the services and parts together, it's been found that the vendors were unable to provide both parts or services as one. The City will go back out for proposals and separate the request, one for parts and one for services. It is anticipated that this will result in multiple contracts with the corresponding local equipment representatives. In addition, the City will select a primary vendor and a secondary vendor for each contract. The secondary vendor will be contacted when the primary vendor is unable to perform the work needed.

In accordance with the Local Government Code 252.043, the City Council may reject any and all bids.

RECOMMENDATION

Staff recommends rejection of all proposals for DEC Engine Maintenance Spare Parts and Services for the Denton Energy Center.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Arthur Pando, 940-349-8653.

Legal point of contact: Leah Bush 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 8879 FOR DEC ENGINE MAINTENANCE SPARE PARTS AND SERVICES FOR THE DENTON ENERGY CENTER; AND PROVIDING AN EFFECTIVE DATE (RFP 8879).

WHEREAS, the City has solicited, received, and tabulated competitive proposals to evaluate DEC Engine Maintenance Spare Parts and Services (RFP 8879) 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 8879 – DEC Engine Maintenance Spare Parts and Services) 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 8879.

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 8879 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 _____, 2026.

GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Schweitzer Engineering Laboratories, Inc., for the purchase of electric utility protective control relays for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (IFB 8891 – awarded to Schweitzer Engineering Laboratories, 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 \$3,267,476.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Denton Municipal Electric (DME) has several projects outlined in its Five-Year Capital Improvement Plan that require the purchase of protective relay, control, monitoring, metering, and integration hardware and accessories. These components are essential to the operation and protection of substation infrastructure, including circuit breakers, buses, transformers, and transmission lines. They also enable communication with other systems, such as the Supervisory Control and Data Acquisition (SCADA) system, and provide critical metering and data retrieval functions.

The majority of these devices are microprocessor-based and highly technical in both design and application. DME has selected Schweitzer Engineering Laboratories, Inc. (SEL) as its standard for this type of equipment. SEL offers the most comprehensive product line in the industry, with devices that provide superior integration capabilities, allowing seamless communication between components and systems. SEL's products are backed by a 10-year warranty and are supported by industry-leading technical assistance and on-call application support. No other manufacturer matches SEL's level of customer service or product reliability.

Currently, DME has over 1200 SEL devices in service across its substations, the majority of which are protective relays. Standardizing on SEL equipment ensures consistency, reliability, and compatibility with existing infrastructure, while also streamlining maintenance and support.

The following estimated contract amount is based on the number of relays needed for both approved and anticipated CIP projects. Many existing relays have reached the end of their service life and will need to be strategically replaced over the next several years. This contract does not commit DME to a minimum

purchase amount. Instead, purchase orders will be issued as needed, in alignment with project timelines and construction schedules.

	Project	Estimated Relay Cost
Year 1	Masch Branch XFMR Addition	\$110,833
	Jim Christal XFMR Addition	\$110,833
	Replace Aging Relays	\$340,000
	Year 1 Total	\$561,666
Year 2	Masch Branch TM Line Tie-In	\$36,879
	Arco TM Line Tie-In	\$78,339
	Replace Aging Relays	\$340,000
	Year 2 Total	\$455,218
Year 3	Southwest Substation	\$332,290
	RD Wells Transformer Addition	\$73,953
	Replace Aging Relays	\$340,000
	Year 3 Total	\$746,243
Year 4	345kV Switch Station	\$190,637
	345kV/138kV Interchange #1	\$323,909
	Replace Aging Relays	\$340,000
	Year 4 Total	\$854,546
Year 5	345kV/138kV Interchange #2	\$309,803
	Replace Aging Relays	\$340,000
	Year 5 Total	\$649,803
	Contract Estimate Total	\$3,267,476

Invitation for Bids was sent to 460 prospective suppliers of this item, including 13 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Six (6) bids were received. The lowest bid was received by Schweitzer Engineering Laboratories, Inc.

NIGP Code Used for Solicitation:	285 - Electrical Equipment and Supplies (Except Cable and Wire)
Notifications sent for Solicitation sent in IonWave:	460
Number of Suppliers that viewed Solicitation in IonWave:	35
HUB-Historically Underutilized Business Invitations sent out:	51
SBE-Small Business Enterprise Invitations sent out:	181
Responses from Solicitation:	6

RECOMMENDATION

Award a contract with Schweitzer Engineering Laboratories, Inc., for the purchase of electric utility protective control relays for Denton Municipal Electric, 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 \$3,267,476.

PRINCIPAL PLACE OF BUSINESS

Schweitzer Engineering Laboratories, Inc.
Pullman, WA

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

The costs for materials purchased under the proposed agreement will be funded out of amounts budgeted for specific projects. A majority of the proposed purchases will be in the transmission category. These costs for transmission projects will ultimately be recovered through the Public Utility Commission Transmission Cost of Service Program (TCOS). Requisitions will be entered on a per-project basis. The budgeted amount for this item is \$3,267,476.

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: Mark Zimmerer, 940-349-7169.

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

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
1	SECTION 1 - RELAYS									
2	Satellite Clock - Mfgr SEL	240700013								
2.1	1-4 units		1	EA	\$2,050.16	\$2,135.60	\$2,250.00	\$2,436.71	\$2,343.04	\$2,837.65
2.2	5-19 Units		1	EA	\$2,030.58	\$2,115.20	\$2,250.00	\$2,342.99	\$2,343.04	\$2,810.59
2.3	20 - 49 Units		1	EA	\$1,978.52	\$2,061.00	\$2,250.00	\$2,249.27	\$2,343.04	\$2,738.82
2.4	Delivery				2 Weeks ARO	2	32	8	2	3
3	Line Current Differential	0311L13DA4254X2XX								
3.1	1-4 units		1	EA	\$9,096.75	\$9,475.80	\$9,985.00	\$10,631.50	\$10,365.43	\$12,590.59
3.2	5-19 Units		1	EA	\$8,869.33	\$9,238.90	\$9,985.00	\$10,222.60	\$10,365.43	\$12,276.47
3.3	20 - 49 Units		1	EA	\$8,641.91	\$9,002.00	\$9,985.00	\$9,813.70	\$10,365.43	\$11,961.18
3.4	Delivery				2 Weeks ARO	2	32	8	2	3
4	Line Current Differential	0311L13DA4254X5XX								
4.1	1-4 units		1	EA	\$9,566.60	\$9,965.20	\$10,505.00	\$11,192.92	\$10,933.26	\$13,241.18
4.2	5-19 Units		1	EA	\$9,327.44	\$9,716.10	\$10,505.00	\$10,762.43	\$10,933.26	\$12,909.41
4.3	20 - 49 Units		1	EA	\$9,088.27	\$9,466.90	\$10,505.00	\$10,331.93	\$10,933.26	\$12,578.82
4.4	Delivery		1		2 Weeks ARO	2	32	8	2	3
5	Line Current Differential	0311L13DD4254X2XX								
5.1	1-4 units		1	EA	\$9,768.64	\$10,175.70	\$10,725.00	\$11,868.06	\$11,164.16	\$13,521.18
5.2	5-19 Units		1	EA	\$9,768.64	\$10,175.70	\$10,725.00	\$11,411.60	\$11,164.16	\$13,521.18
5.3	20 - 49 Units		1	EA	\$9,636.46	\$10,038.00	\$10,725.00	\$10,955.14	\$11,164.16	\$13,337.65
5.4	Delivery				2 Weeks ARO	2	32	8	2	3
6	Line Current Differential	0311L13DD4254X5XX								
6.1	1-4 units		1	EA	\$10,613.49	\$11,055.70	\$11,650.00	\$12,417.78	\$12,129.70	\$14,689.41
6.2	5-19 Units		1	EA	\$10,348.15	\$10,779.30	\$11,650.00	\$11,940.18	\$12,129.70	\$14,322.35
6.3	20 - 49 Units		1	EA	\$10,082.82	\$10,502.90	\$11,650.00	\$11,462.57	\$12,129.70	\$13,955.29
6.4	Delivery				2 Weeks ARO	2	32	8	2	3
7	Breaker Protection	0351S6X3D4E5421								
7.1	1-4 units		1	EA	\$4,580.15	\$4,771.00	\$5,030.00	\$5,358.78	\$5,234.46	\$6,338.82
7.2	5-19 Units		1	EA	\$4,465.65	\$4,651.70	\$5,030.00	\$5,152.68	\$5,234.46	\$6,181.18
7.3	20 - 49 Units		1	EA	\$4,351.14	\$4,532.40	\$5,030.00	\$4,946.57	\$5,234.46	\$6,022.35
7.4	Delivery				2 Weeks ARO	2	32	8	2	3
8	Breaker Protection	0351S6X3D4F5422								
8.1	1-4 units		1	EA	\$5,128.53	\$5,342.20	\$5,630.00	\$6,000.38	\$5,861.18	\$7,098.82
8.2	5-19 Units		1	EA	\$5,000.32	\$5,208.70	\$5,630.00	\$5,769.60	\$5,861.18	\$6,921.18
8.3	20 - 49 Units		1	EA	\$4,872.10	\$5,075.10	\$5,630.00	\$5,538.82	\$5,861.18	\$6,743.53
8.4	Delivery				2 Weeks ARO	2	32	8	2	3
9	Breaker Protection	0351S7X3D4E5421								
9.1	1-4 units		1	EA	\$5,440.10	\$5,666.80	\$5,975.00	\$6,364.92	\$6,217.26	\$7,529.41
9.2	5-19 Units		1	EA	\$5,304.10	\$5,525.10	\$5,975.00	\$6,120.11	\$6,217.26	\$7,341.18
9.3	20 - 49 Units		1	EA	\$5,168.10	\$5,383.40	\$5,975.00	\$5,875.31	\$6,217.26	\$7,152.94
9.4	Delivery				2 Weeks ARO	2	32	8	2	3
10	Breaker Protection	0351S7X3D4F5422								
10.1	1-4 units		1	EA	\$5,988.48	\$6,238.00	\$6,575.00	\$7,006.52	\$6,843.98	\$8,288.24

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
10.2	5-19 Units		1	EA	\$5,838.77	\$6,082.10	\$6,575.00	\$6,737.04	\$6,843.98	\$8,081.18
10.3	20 - 49 Units		1	EA	\$5,689.06	\$5,926.10	\$6,575.00	\$6,467.56	\$6,843.98	\$7,874.12
10.4	Delivery				2 Weeks ARO	2	32	8	2	3
11	Current Differential	0387604X53XX4XX								
11.1	1-4 units		1	EA	\$7,378.10	\$7,685.50	\$8,100.00	\$8,632.38	\$8,432.11	\$10,211.76
11.2	5-19 Units		1	EA	\$7,193.65	\$7,493.40	\$8,100.00	\$8,300.36	\$8,432.11	\$9,956.47
11.3	20 - 49 Units		1	EA	\$7,009.20	\$7,301.30	\$8,100.00	\$7,968.35	\$8,432.11	\$9,701.18
11.4	Delivery				2 Weeks ARO	2	32	8	2	3
12	Line Current Differential	0411L0X6X5B6DDX3474XXXX								
12.1	1-4 units		1	EA	\$15,432.93	\$16,076.00	\$16,945.00	\$18,056.53	\$17,637.63	\$21,360.00
12.2	5-19 Units		1	EA	\$15,047.11	\$15,674.10	\$16,945.00	\$17,362.05	\$17,637.63	\$20,825.88
12.3	20 - 49 Units		1	EA	\$14,661.28	\$15,272.20	\$16,945.00	\$16,667.57	\$17,637.63	\$20,292.94
12.4	Delivery				2 Weeks ARO	2	32	8	2	3
13	Line Current Differential	0411L0X6X5B6DDX357424XX								
13.1	1-4 units		1	EA	\$16,149.55	\$16,822.40	\$17,730.00	\$18,894.98	\$18,456.63	\$22,352.94
13.2	5-19 Units		1	EA	\$15,745.81	\$16,401.90	\$17,730.00	\$18,168.25	\$18,456.63	\$21,792.94
13.3	20 - 49 Units		1	EA	\$15,342.07	\$15,981.30	\$17,730.00	\$17,441.52	\$18,456.63	\$21,235.29
13.4	Delivery				2 Weeks ARO	2	32	8	2	3
14	Line Current Differential	0411L0X6X5C7DDX357424XX								
14.1	1-4 units		1	EA	\$16,853.72	\$17,556.00	\$18,505.00	\$19,718.86	\$19,261.39	\$23,327.05
14.2	5-19 Units		1	EA	\$16,432.38	\$17,117.10	\$18,505.00	\$18,960.44	\$19,261.39	\$22,743.53
14.3	20 - 49 Units		1	EA	\$16,011.03	\$16,678.20	\$18,505.00	\$18,202.02	\$19,261.39	\$22,161.18
14.4	Delivery				2 Weeks ARO	2	32	8	2	3
15	Bus Differential and Breaker Failure	0487B1X6X52XB1XE37EPXXX								
15.1	1-4 units		1	EA	\$12,571.44	\$13,095.30	\$13,805.00	\$14,708.59	\$14,367.36	\$17,397.65
15.2	5-19 Units		1	EA	\$12,257.15	\$12,767.90	\$13,805.00	\$14,142.88	\$14,367.36	\$16,964.70
15.3	20 - 49 Units		1	EA	\$11,942.87	\$12,440.50	\$13,805.00	\$13,577.16	\$14,367.36	\$16,529.41
15.4	Delivery				2 Weeks ARO	2	32	8	2	3
16	Bus Differential and Breaker Failure	0487B1X6X52XC3XE38PPXXX								
16.1	1-4 units		1	EA	\$13,632.04	\$14,200.00	\$14,965.00	\$15,949.49	\$15,579.47	\$18,868.24
16.2	5-19 Units		1	EA	\$13,291.24	\$13,845.00	\$14,965.00	\$15,336.05	\$15,579.47	\$18,396.47
16.3	20 - 49 Units		1	EA	\$12,950.44	\$13,490.00	\$14,965.00	\$14,722.61	\$15,579.47	\$17,924.71
16.4	Delivery				2 Weeks ARO	2	32	8	2	3
17	Transformer Protection	0487E3X611XXB1X435XXXXX								
17.1	1-4 units		1	EA	\$10,335.57	\$10,766.20	\$11,350.00	\$12,092.61	\$11,812.08	\$14,304.71
17.2	5-19 Units		1	EA	\$10,077.18	\$10,497.10	\$11,350.00	\$11,627.51	\$11,812.08	\$13,948.24
17.3	20 - 49 Units		1	EA	\$9,818.79	\$10,227.90	\$11,350.00	\$11,162.41	\$11,812.08	\$13,590.59
17.4	Delivery				2 Weeks ARO	2	32	8	2	3
18	Transformer Protection	0487E3X611XXB1X43624XXX								
18.1	1-4 units		1	EA	\$11,052.19	\$11,512.70	\$12,135.00	\$12,931.06	\$12,631.07	\$15,297.65
18.2	5-19 Units		1	EA	\$10,775.89	\$11,224.90	\$12,135.00	\$12,433.71	\$12,631.07	\$14,915.29
18.3	20 - 49 Units		1	EA	\$10,499.58	\$10,937.10	\$12,135.00	\$11,936.36	\$12,631.07	\$14,531.76
18.4	Delivery				2 Weeks ARO	2	32	8	2	3

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
19	Transformer Protection	0487E3X611XXC3X4374474X								
19.1	1-4 units		1	EA	\$13,102.36	\$13,648.30	\$14,385.00	\$15,329.76	\$14,974.13	\$18,135.29
19.2	5-19 Units		1	EA	\$12,774.80	\$13,307.10	\$14,385.00	\$14,740.15	\$14,974.13	\$17,681.78
19.3	20 - 49 Units		1	EA	\$12,447.24	\$12,965.90	\$14,385.00	\$14,150.54	\$14,974.13	\$17,228.24
19.4	Delivery				2 Weeks ARO	2	32	8	2	3
20	Overcurrent Relay	050120325613XB								
20.1	1-4 units		1	EA	\$1,567.85	\$1,633.20	\$1,720.00	\$1,834.39	\$1,791.83	\$2,169.41
20.2	5-19 Units		1	EA	\$1,528.65	\$1,592.30	\$1,720.00	\$1,763.84	\$1,791.83	\$2,115.29
20.3	20 - 49 Units		1	EA	\$1,489.46	\$1,551.50	\$1,720.00	\$1,693.28	\$1,791.83	\$2,061.18
20.4	Delivery				2 Weeks ARO	2	32	8	2	3
21	Overcurrent/Reclosing Relay	0551C0BX533X								
21.1	1-4 units		1	EA	\$1,538.38	\$1,602.50	\$1,690.00	\$1,855.57	\$1,758.15	\$2,129.41
21.2	5-19 Units		1	EA	\$1,538.38	\$1,602.50	\$1,690.00	\$1,784.20	\$1,758.15	\$2,129.41
21.3	20 - 49 Units		1	EA	\$1,506.66	\$1,569.40	\$1,690.00	\$1,712.83	\$1,758.15	\$2,085.88
21.4	Delivery				2 Weeks ARO	2	32	8	2	3
22	Differential Relay	0587Z0X325312XX								
22.1	1-4 units		1	EA	\$5,400.35	\$5,625.40	\$5,930.00	\$6,561.78	\$6,171.83	\$7,474.12
22.2	5-19 Units		1	EA	\$5,400.35	\$5,625.40	\$5,930.00	\$6,309.40	\$6,171.83	\$7,474.12
22.3	20 - 49 Units		1	EA	\$5,327.93	\$5,549.90	\$5,930.00	\$6,057.02	\$6,171.83	\$7,374.12
22.4	Delivery				2 Weeks ARO	2	32	8	2	3
23	EPS Meter	0735VX20944CGXA4XX16101XX								
23.1	1-4 units		1	EA	\$4,997.06	\$5,205.30	\$5,485.00	\$5,846.56	\$5,710.93	\$6,916.47
23.2	5-19 Units		1	EA	\$4,872.13	\$5,075.10	\$5,485.00	\$5,621.69	\$5,710.93	\$6,743.53
23.3	20 - 49 Units		1	EA	\$4,747.21	\$4,945.00	\$5,485.00	\$5,396.82	\$5,710.93	\$6,570.59
23.4	Delivery				2 Weeks ARO	2	32	8	2	3
24	EPS Meter	0735VX20944FGXA4XX16201XX								
24.1	1-4 units		1	EA	\$5,508.65	\$5,738.20	\$6,045.00	\$6,445.13	\$6,295.60	\$7,624.71
24.2	5-19 Units		1	EA	\$5,370.93	\$5,594.70	\$6,045.00	\$6,197.24	\$6,295.60	\$7,434.12
24.3	20 - 49 Units		1	EA	\$5,233.22	\$5,451.30	\$6,045.00	\$5,949.35	\$6,295.60	\$7,243.53
24.4	Delivery				2 Weeks ARO	2	32	8	2	3
25	Transformer Protection Relay	07873EE1A2A3A7685A830								
25.1	1-4 units		1	EA	\$8,884.88	\$9,255.10	\$9,755.00	\$10,395.31	\$10,154.15	\$12,297.65
25.2	5-19 Units		1	EA	\$8,662.76	\$9,023.70	\$9,755.00	\$9,995.49	\$10,154.15	\$11,989.41
25.3	20 - 49 Units		1	EA	\$8,440.64	\$8,792.30	\$9,755.00	\$9,595.67	\$10,154.15	\$11,682.35
25.4	Delivery				3 Weeks ARO	2	32	8	2	3
26	Logic Processor	2100XX4443								
26.1	1-4 units		1	EA	\$3,701.51	\$3,855.70	\$4,065.00	\$4,330.77	\$4,230.30	\$5,123.53
26.2	5-19 Units		1	EA	\$3,608.97	\$3,759.30	\$4,065.00	\$4,164.20	\$4,230.30	\$4,995.29
26.3	20 - 49 Units		1	EA	\$3,516.43	\$3,662.90	\$4,065.00	\$3,997.63	\$4,230.30	\$4,867.05
26.4	Delivery				2 Weeks ARO	2	32	8	2	3
27	Programmable Automation Controller	241101AA0BA1A0X0130								
27.1	1-4 units		1	EA	\$2,272.64	\$2,367.30	\$2,495.00	\$2,658.99	\$2,597.30	\$3,145.88
27.2	5-19 Units		1	EA	\$2,215.82	\$2,308.10	\$2,495.00	\$2,556.73	\$2,597.30	\$3,067.06

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
27.3	20 - 49 Units		1	EA	\$2,159.01	\$2,249.00	\$2,495.00	\$2,454.46	\$2,597.30	\$2,988.24
27.4	Delivery				3 Weeks ARO	2	32	8	2	3
28	Programmable Automation Controller	241101AA0BA1A0X0840								
28.1	1-4 units		1	EA	\$3,123.23	\$3,253.40	\$3,430.00	\$3,654.18	\$3,569.41	\$4,322.35
28.2	5-19 Units		1	EA	\$3,045.15	\$3,172.00	\$3,430.00	\$3,513.64	\$3,569.41	\$4,215.29
28.3	20+ Units		1	EA	\$2,967.07	\$3,090.70	\$3,430.00	\$3,373.09	\$3,569.41	\$4,107.06
28.4	Delivery				3 Weeks ARO	2	32	8	2	3
29	Transformer Monitor	241421ABACACA850130								
29.1	1-4 units		1	EA	\$2,899.53	\$3,020.30	\$3,180.00	\$3,392.45	\$3,313.75	\$4,012.94
29.2	5-19 Units		1	EA	\$2,827.04	\$2,944.80	\$3,180.00	\$3,261.98	\$3,313.75	\$3,912.94
29.3	20 - 49 Units		1	EA	\$2,754.55	\$2,869.30	\$3,180.00	\$3,131.50	\$3,313.75	\$3,812.94
29.4	Delivery				3 Weeks ARO	2	32	8	2	3
30	Transformer Monitor	241421ABACACA850840								
30.1	1-4 units		1	EA	\$3,750.12	\$3,906.40	\$4,115.00	\$4,387.64	\$4,285.85	\$5,190.59
30.2	5-19 Units		1	EA	\$3,656.37	\$3,808.70	\$4,115.00	\$4,218.89	\$4,285.85	\$5,061.18
30.3	20 - 49 Units		1	EA	\$3,562.61	\$3,711.10	\$4,115.00	\$4,050.13	\$4,285.85	\$4,930.59
30.4	Delivery				3 Weeks ARO	2	32	8	2	3
31	DPAC	24402311A1A11630								
31.1	1-4 units		1	EA	\$1,308.62	\$1,363.10	\$1,435.00	\$1,531.09	\$1,495.57	\$1,811.76
31.2	5-19 Units		1	EA	\$1,275.90	\$1,329.10	\$1,435.00	\$1,472.20	\$1,495.57	\$1,765.88
31.3	20+ Units		1	EA	\$1,243.19	\$1,295.00	\$1,435.00	\$1,413.31	\$1,495.57	\$1,721.18
31.4	Delivery				2 Weeks ARO	2	32	8	2	3
32	DPAC	24402311A1A11840								
32.1	1-4 units		1	EA	\$2,065.13	\$2,151.20	\$2,265.00	\$2,416.21	\$2,360.15	\$2,858.82
32.2	5-19 Units		1	EA	\$2,013.50	\$2,097.40	\$2,265.00	\$2,323.28	\$2,360.15	\$2,787.06
32.3	20 - 49 Units		1	EA	\$1,961.87	\$2,043.60	\$2,265.00	\$2,230.34	\$2,360.15	\$2,715.29
32.4	Delivery				2 Weeks ARO	2	32	8	2	3
33	DPAC	24402312A1A11630								
33.1	1-4 units		1	EA	\$1,308.62	\$1,363.10	\$1,435.00	\$1,531.09	\$1,495.57	\$1,811.76
33.2	5-19 Units		1	EA	\$1,275.90	\$1,329.10	\$1,435.00	\$1,472.20	\$1,495.57	\$1,765.88
33.3	20 - 49 Units		1	EA	\$1,243.19	\$1,295.00	\$1,435.00	\$1,413.31	\$1,495.57	\$1,721.18
33.4	Delivery				2 Weeks ARO	2	32	8	2	3
34	DPAC	24402312A1A11840								
34.1	1-4 units		1	EA	\$2,065.13	\$2,151.20	\$2,265.00	\$2,416.21	\$2,360.15	\$2,858.82
34.2	5-19 Units		1	EA	\$2,013.50	\$2,097.40	\$2,265.00	\$2,323.28	\$2,360.15	\$2,787.06
34.3	20 - 49 Units		1	EA	\$1,961.87	\$2,043.60	\$2,265.00	\$2,230.34	\$2,360.15	\$2,715.29
34.4	Delivery				2 Weeks ARO	2	32	8	2	3
35	Satellite Network Clock	2488PRAX2281CX23X								
35.1	1-4 units		1	EA	\$8,593.97	\$8,952.10	\$9,435.00	\$10,054.94	\$9,821.68	\$11,895.29
35.2	5-19 Units		1	EA	\$8,379.12	\$8,728.30	\$9,435.00	\$9,668.21	\$9,821.68	\$11,597.65
35.3	20 - 49 Units		1	EA	\$8,164.27	\$8,504.40	\$9,435.00	\$9,821.48	\$9,821.68	\$11,300.00
35.4	Delivery				2 Weeks ARO	2	32	8	2	3
36	Managed Ethernet Switch	2730M0APAX1111AAAAX0								

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Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
36.1	1-4 units		1	EA	\$3,163.27	\$3,295.10	\$3,470.00	\$3,701.02	\$3,615.17	\$4,377.65
36.2	5-19 Units		1	EA	\$3,084.19	\$3,212.70	\$3,470.00	\$3,558.68	\$3,615.17	\$4,268.24
36.3	20 - 49 Units		1	EA	\$3,005.11	\$3,130.30	\$3,470.00	\$3,416.33	\$3,615.17	\$4,158.82
36.4	Delivery				3 Weeks ARO	2	32	8	2	3
37	Managed Ethernet Switch	2730M0ARAX1111AAAAAX0								
37.1	1-4 units		1	EA	\$3,000.00	\$3,125.00	\$3,290.00	\$3,510.00	\$3,428.57	\$4,151.76
37.2	5-19 Units		1	EA	\$2,925.00	\$3,046.90	\$3,290.00	\$3,375.00	\$3,428.57	\$4,048.24
37.3	20+ Units		1	EA	\$2,850.00	\$2,968.80	\$3,290.00	\$3,240.00	\$3,428.57	\$3,944.71
37.4	Delivery				3 Weeks ARO	2	32	8	2	3
38	Unmanaged Ethernet Switch	2730U0APAX1111AAAAAX0								
38.1	1-4 units		1	EA	\$2,207.20	\$2,299.20	\$2,420.00	\$2,582.42	\$2,522.51	\$3,055.29
38.2	5-19 Units		1	EA	\$2,152.02	\$2,241.70	\$2,420.00	\$2,483.10	\$2,522.51	\$2,978.82
38.3	20 - 49 Units		1	EA	\$2,096.84	\$2,184.20	\$2,420.00	\$2,383.78	\$2,522.51	\$2,902.35
38.4	Delivery				3 Weeks ARO	2	32	8	2	3
39	Unmanaged Ethernet Switch	2730U0ARAX1111AAAAAX0								
39.1	1-4 units		1	EA	\$2,043.93	\$2,129.10	\$2,245.00	\$2,391.40	\$2,335.92	\$2,829.41
39.2	5-19 Units		1	EA	\$1,992.83	\$2,075.90	\$2,245.00	\$2,299.43	\$2,335.92	\$2,758.82
39.3	20 - 49 Units		1	EA	\$1,941.73	\$2,022.60	\$2,245.00	\$2,207.45	\$2,335.92	\$2,687.06
39.4	Delivery				3 Weeks ARO	2	32	8	2	3
40	Unmanaged Ethernet Switch	2730U0ARAX1113AAAAAX0								
40.1	1-4 units		1	EA	\$3,190.53	\$3,323.50	\$3,505.00	\$3,732.87	\$3,646.32	\$4,416.47
40.2	5-19 Units		1	EA	\$3,110.77	\$3,240.40	\$3,505.00	\$3,589.30	\$3,646.32	\$4,305.88
40.3	20 - 49 Units		1	EA	\$3,031.00	\$3,157.30	\$3,505.00	\$3,445.73	\$3,646.32	\$4,195.29
40.4	Delivery				3 Weeks ARO	2	32	8	2	3
41	Automation Controller	3355#FH8B								
41.1	1-4 units		1	EA	\$10,892.10	\$11,345.90	\$11,960.00	\$12,743.76	\$12,448.11	\$15,025.29
41.2	5-19 Units		1	EA	\$10,619.80	\$11,062.30	\$11,960.00	\$12,253.61	\$12,448.11	\$14,698.82
41.3	20 - 49 Units		1	EA	\$10,347.50	\$10,778.60	\$11,960.00	\$11,763.47	\$12,448.11	\$14,322.35
41.4	Delivery				5 Weeks ARO	2	32	8	2	3
42	Automation Controller	3355#YVYT								
42.1	1-4 units		1	EA	\$8,929.99	\$9,302.10	\$9,805.00	\$10,448.09	\$10,205.70	\$12,360.00
42.2	5-19 Units		1	EA	\$8,706.74	\$9,069.50	\$9,805.00	\$10,046.24	\$10,205.70	\$12,050.59
42.3	20 - 49 Units		1	EA	\$8,483.49	\$8,837.00	\$9,805.00	\$9,644.39	\$10,205.70	\$11,742.35
42.4	Delivery				5 Weeks ARO	2	32	8	2	3
43	Automation Controller	3355#D0LG								
43.1	1-4 units		1	EA	\$10,336.48	\$10,767.20	\$11,350.00	\$12,093.68	\$11,813.12	\$14,307.56
43.2	5-19 Units		1	EA	\$10,078.07	\$10,498.00	\$11,350.00	\$11,628.54	\$11,813.12	\$13,949.41
43.3	20 - 49 Units		1	EA	\$9,819.66	\$10,228.80	\$11,350.00	\$11,163.40	\$11,813.12	\$13,591.76
43.4	Delivery				5 Weeks ARO	2	32	8	2	3
44	Port Server	3610X3A0XXX0								
44.1	1-4 units		1	EA	\$2,442.75	\$2,544.50	\$2,680.00	\$2,858.02	\$2,791.71	\$3,381.18
44.2	5-19 Units		1	EA	\$2,381.68	\$2,480.90	\$2,680.00	\$2,748.10	\$2,791.71	\$3,296.47
44.3	20 - 49 Units		1	EA	\$2,320.61	\$2,417.30	\$2,680.00	\$2,638.18	\$2,791.71	\$3,211.76

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
44.4	Delivery				2 Weeks ARO	2	32	8	2	3
45	Ethernet Security Gateway	3620X3A0XXX0								
45.1	1-4 units		1	EA	\$3,788.75	\$3,946.60	\$4,160.00	\$4,432.84	\$4,330.00	\$5,243.53
45.2	5-19 Units		1	EA	\$3,694.03	\$3,847.90	\$4,160.00	\$4,262.35	\$4,330.00	\$5,112.94
45.3	20 - 49 Units		1	EA	\$3,599.31	\$3,749.30	\$4,160.00	\$4,091.86	\$4,330.00	\$4,981.18
45.4	Delivery				2 Weeks ARO	2	32	8	2	3
46	Feeder Protection Relay	751501A4A2A7085AG30								
46.1	1-4 units		1	EA	\$6,939.40	\$7,228.50	\$7,615.00	\$8,119.10	\$7,930.74	\$9,604.71
46.2	5-19 Units		1	EA	\$6,765.92	\$7,047.80	\$7,615.00	\$7,806.83	\$7,930.74	\$9,364.71
46.3	20 - 49 Units		1	EA	\$6,592.43	\$6,867.10	\$7,615.00	\$7,494.55	\$7,930.74	\$9,124.71
46.4	Delivery				3 Weeks ARO	2	32	8	2	
47	Control Switch Module	951031B2								
47.1	1-4 units		1	EA	\$488.37	\$508.70	\$535.00	\$634.88	\$558.14	\$676.47
47.2	5-19 Units		1	EA	\$488.37	\$508.70	\$535.00	\$610.46	\$558.14	\$676.47
47.3	20+ Units		1	EA	\$488.37	\$508.70	\$535.00	\$586.04	\$558.14	\$676.47
47.4	Delivery				2 Weeks ARO	2	32	8	2	
48	Ethernet Switch									
48.1	1-4 units		1	EA	\$587.01	\$611.50	\$640.00	\$686.80	\$670.87	\$812.94
48.2	5-19 Units		1	EA	\$572.33	\$596.20	\$640.00	\$660.39	\$670.87	\$791.76
48.3	20 - 49 Units		1	EA	\$557.66	\$580.90	\$640.00	\$633.97	\$670.87	\$771.76
48.4	Delivery				2 Weeks ARO	2	32	8	2	
49	Ethernet Switch									
49.1	1-4 units		1	EA	\$3,862.50	\$4,023.40	\$4,240.00	\$4,519.13	\$4,414.29	\$5,345.88
49.2	5-19 Units		1	EA	\$3,765.94	\$3,922.90	\$4,240.00	\$4,345.31	\$4,414.29	\$5,212.94
49.3	20 - 49 Units		1	EA	\$3,669.38	\$3,822.30	\$4,240.00	\$4,171.50	\$4,414.29	\$5,078.82
49.4	Delivery				2 Weeks ARO	2	32	8	2	
50	Ethernet Switch									
50.1	1-4 units		1	EA	\$4,032.45	\$4,200.50	\$4,425.00	\$4,717.97	\$4,608.51	\$5,581.18
50.2	5-19 Units		1	EA	\$3,931.64	\$4,095.50	\$4,425.00	\$4,536.51	\$4,608.51	\$5,441.18
50.3	20 - 49 Units		1	EA	\$3,830.83	\$3,990.40	\$4,425.00	\$4,355.05	\$4,608.51	\$5,302.35
50.4	Delivery				2 Weeks ARO	2	32	8	2	
51	SECTION 2 - MISCELLANEOUS HARDWARE AND CABLES									
52	PRP Driver for Windows	5815-0001								
52.1	1-4 units		1	EA	\$1,211.40	\$1,261.90	\$1,330.00	\$1,574.82	\$1,384.46	\$1,676.47
52.2	5-19 Units		1	EA	\$1,211.40	\$1,261.90	\$1,330.00	\$1,514.25	\$1,384.46	\$1,676.47
52.3	20+ Units		1	EA	\$1,211.40	\$1,261.90	\$1,330.00	\$1,453.68	\$1,384.46	\$1,676.47
52.4	Delivery				1 WK	2	32	8	2	0
53	SFP	8109-01								
53.1	1-4 units		1	EA	\$100.00	\$104.20	\$105.00	\$130.00	\$114.29	\$138.82
53.2	5-19 Units		1	EA	\$100.00	\$104.20	\$105.00	\$125.00	\$114.29	\$138.82
53.3	20+ Units		1	EA	\$100.00	\$104.20	\$105.00	\$120.00	\$114.29	\$138.82
53.4	Delivery				1 Wk	2	32	8	2	
54	SFP Transceiver - single mode	8130-01								

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name: Principal Place of Business (City and State):					Schweitzer Engineering Laboratories, Inc. Leonard, TX	Texas Electric Cooperatives Georgetown, TX	Technology International, Inc. Lake Mary, FL	United Electric Systems Inc Allentown, PA	MP Predictive Technologies Inc. Orlando, FL	Jasco Enterprises, Inc. Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
54.1	1-4 units		1	EA	\$218.00	\$227.10	\$235.00	\$283.40	\$249.14	\$301.17
54.2	5-19 Units		1	EA	\$218.00	\$227.10	\$235.00	\$272.50	\$249.14	\$301.17
54.3	20+ Units		1	EA	\$218.00	\$227.10	\$235.00	\$261.60	\$249.14	\$301.17
54.4	Delivery				1 WK	2	32	8	2	
55	SFP Transceiver - multi mode	8131-01								
55.1	1-4 units		1	EA	\$100.00	\$104.20	\$105.00	\$130.00	\$249.14	\$138.82
55.2	5-19 Units		1	EA	\$100.00	\$104.20	105	\$125.00	\$249.14	\$138.82
55.3	20+ Units		1	EA	\$100.00	\$104.20	\$105.00	\$120.00	\$249.14	\$138.82
55.4	Delivery				1 Wk	2	32	8	2	
56	Keyboard w/ mouse and locking tray	91610050-L								
56.1	1-4 units		1	EA	\$995.42	\$1,036.90	\$1,090.00	\$1,294.05	No Bid	\$1,377.65
56.2	5-19 Units		1	EA	\$995.42	\$1,036.90	\$1,090.00	\$1,244.28	No Bid	\$1,377.65
56.3	20+ Units		1	EA	\$995.42	\$1,036.90	\$1,090.00	\$1,194.50	No Bid	\$1,377.65
56.4	Delivery				1 Wk	2	32	8	No Bid	
57	Power Supply	9331A101X2								
57.1	1-4 units		1	EA	\$520.95	\$542.70	\$570.00	\$677.24	No Bid	\$721.18
57.2	5-19 Units		1	EA	\$520.95	\$542.70	\$570.00	\$651.19	No Bid	\$721.18
57.3	20+ Units		1	EA	\$520.95	\$542.70	\$570.00	\$625.14	No Bid	\$721.18
57.4	Delivery				2 Wk	2	32	8	No Bid	
58	Gas Tube Coaxial Surge Protector									
58.1	1-4 units		1	EA	\$143.32	\$149.30	\$30.00	\$186.32	No Bid	\$198.82
58.2	5-19 Units		1	EA	\$143.32	\$149.30	\$30.00	\$179.15	No Bid	\$198.82
58.3	20+ Units		1	EA	\$143.32	\$149.30	\$30.00	\$171.98	No Bid	\$198.82
58.4	Delivery				1 WK	2	32	8	No Bid	
59	Mounting Bracket for Surge Protector									
59.1	1-4 units		1	EA	\$8.09	\$8.40	\$0.00	\$186.32	No Bid	\$11.76
59.2	5-19 Units		1	EA	\$8.09	\$8.40	\$0.00	\$179.15	No Bid	\$11.76
59.3	20+ Units		1	EA	\$8.09	\$8.40	\$0.00	\$171.98	No Bid	\$11.76
59.4	Delivery				1 Wk	2	0	8	No Bid	
60	RG-58A/U Coaxial Cable with BNC male connectors on both ends, 2' length	C953	1							
60.1	Each		1	EA	\$31.47	\$32.80	\$30.00	\$40.91	No Bid	\$43.53
60.2	*Addition cable over 2' - RG-58A/U		1	EA	\$32.19	\$33.50	\$0.00	\$40.91	No Bid	\$44.71
60.3	Delivery				2 WK	2	32	8	No Bid	
61	RG-58A/U Coaxial Cable with BNC male connector to ferrule connector, 2' length*	C962								
61.1	Each		1	EA	\$31.47	\$32.80	\$30.00	\$40.91	No Bid	\$43.53
61.2	*Addition cable over 2' - RG-58A/U		1	FT	\$32.19	\$33.50	\$0.00	\$40.91	No Bid	\$44.71
61.3	Delivery				1 Wk	2	32	8	No Bid	
62	RG-58A/U Coaxial Cable with BNC male connector to ferrule connector, 2' length*									
62.1	Each		1	EA	\$31.47	\$32.80	\$30.00	\$40.91	No Bid	\$43.53
62.2	*Addition cable over 2' - RG-58A/U		1	FT	\$32.19	\$33.50	\$0.00	\$42.78	No Bid	\$44.71

Exhibit 2
IFB 8891 - Bid Tabulation for Supply of Electric Utility Protective Control Relays

Respondent's Business Name:					Schweitzer Engineering Laboratories, Inc.	Texas Electric Cooperatives	Technology International, Inc.	United Electric Systems Inc	MP Predictive Technologies Inc.	Jasco Enterprises, Inc.
Principal Place of Business (City and State):					Leonard, TX	Georgetown, TX	Lake Mary, FL	Allentown, PA	Orlando, FL	Addison, TX
Line #	Description	Mfgno	QTY	UOM	Unit	Unit	Unit	Unit	Unit	Unit
62.3	Delivery				2 Wk	2	32	8	No Bid	
63	RG-8 Coaxial Cable with TNC male connectors on both ends, 8' length**	C965C								
63.1	Each		1	EA	\$62.76	\$65.40	\$65.00	\$73.42	No Bid	\$87.06
63.2	**Addition cable over 8' - RG-8		1	FT	\$64.98	\$67.70	\$0.00	\$46.53	No Bid	\$89.41
63.3	Delivery				2 Wk	2	32	8	No Bid	
64	EIA-232 serial adapter cable with IRIG-B - 9 pin Male to Female BNC, 6' length	C478N								
64.1	Each		1	EA	\$44.28	\$46.10	\$50.00	\$57.56	No Bid	\$61.18
64.2	Delivery				2 Wk	2	32	8	No Bid	
65	EIA-232 serial adapter cable with IRIG-B - 9 pin Male to 9 pin Male, 8' length	C273A								
65.1	Each		1	EA	\$47.03	\$49.00	\$55.00	\$61.14	No Bid	\$64.71
65.2	Delivery				2 Wk	2	32	8	No Bid	
Total:					\$899,538.74	\$937,020.20	\$1,010,645.00	\$1,041,040.27	\$1,046,919.18	\$1,244,999.26

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SCHWEITZER ENGINEERING LABORATORIES, INC., FOR THE PURCHASE OF ELECTRIC UTILITY PROTECTIVE CONTROL RELAYS FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (IFB 8891 – AWARDED TO SCHWEITZER ENGINEERING LABORATORIES, 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 \$3,267,476.00).

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>
8891	Schweitzer Engineering Laboratories, Inc.	\$3,267,476.00

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 _____, 2026.

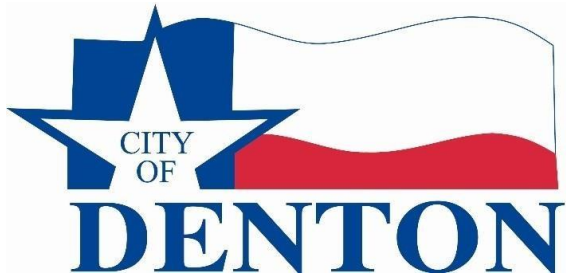
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

IFB	8891
File Name	Protective Control Panels
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND SCHWEITZER ENGINEERING LABORATORIES,
INC.
(Contract # 8891)**

THIS CONTRACT is made and entered into this date _____, by and between **Schweitzer Engineering Laboratories, Inc.** a Washington corporation, whose address 2350 NE Hopkins Court, Pullman, WA 99163 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 8891 Supply of Protective Relay Panels** 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 8891** (the “Solicitation”) **(Exhibit “B” on file at the office of the Purchasing Agent);**
- (c) City of Denton Standard Terms and Conditions **(Exhibit “C”);**
- (d) Software License Agreement **(Exhibit “D”);**
- (e) Certificate of Interested Parties Electronic Filing **(Exhibit “E”);**
- (f) Contractor’s Bid (“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.

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

Signed by:
Antonio Puente, Jr.
E3760944C2BF4B5...
SIGNATURE

Antonio Puente, Jr.
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn
4B070831B4AA438...

CONTRACTOR
BY: Jeremy Nickels
3398DE909A1D4D4...
AUTHORIZED SIGNATURE

Printed Name: Jeremy Nickels

Title: VP of Finance, SEL Inc

509-334-8031
PHONE NUMBER

dita_wexler@selinc.com
EMAIL ADDRESS

2025-7
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 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.

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 will be effective from date of award or notice to proceed with a purchase order as determined by the City of Denton Purchasing Department. 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 \$3,267,476. Pricing shall be per Exhibit F attached.

7. Delivery Lead Time

Product or services shall be delivered to the City per the days/weeks noted in Exhibit F after receipt of the order.

Exhibit B
City of Denton's IFB 8891 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 Contractor 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 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. The City must unpack and examine the Products immediately, and if damage is discovered, notify the Contractor within three (3) business days of delivery. In any event, acceptance shall be deemed to have occurred no later than fifteen (15) days after shipment. The City may not return any Product without prior written consent of the Contractor.

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 have the right to correct with a conforming tender; provided, 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 actual and substantiated 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: INTENTIONALLY OMITTED.

10. WORKFORCE INTENTIONALLY OMITTED

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: INTENTIONALLY OMITTED.

12. INVOICES:

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

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation

charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon execution of the Contract

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 under this agreement 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. In the event of payment by credit card the Contractor shall be able to charge a transaction fee. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by 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. The City will be responsible for payment of all completed services subject to the terms and conditions of this Contract.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

C. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents", and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document. In no event shall the City have access to Contractor or its subcontractor's composition of fixed rates or lump sums, the financial make up of payroll burdens or to any costs expressed as a percentage of direct labor costs. Audit information will be limited to time and material expense for the project in question.

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 and for similar quantities 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.

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 Contract 8891

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. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF PERFORMANCE OR DEALING OR USAGE OF TRADE, EXCEPT WARRANTY OF TITLE AND AGAINST PATENT INFRINGEMENT.

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be ten (10) years for all Contractor products from the date of shipment. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of written demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at no additional cost to the City. The City shall endeavor to give the Contractor written notice of the breach of warranty within ten (10) business 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 any Product fails to conform to this warranty, the City properly notifies Contractor of such failure and the City returns the Product to Contractor's factory for diagnosis (and pays for all expenses for such return), Contractor shall correct any such failure by, at its sole discretion, either repairing any defective or damaged Product part(s) or making available any necessary replacement part(s) or Product(s). Contractor will pay the freight to return the Product to the City (Carriage Paid To (CPT) customer's place of business). If Contractor is unable or unwilling to repair or replace, Contractor and the City shall negotiate an equitable resolution such as a prorated refund or credit to the City's account. Any Product repair or upgrade shall be covered by this warranty for the longer of one (1) year from date of repair or the remainder of the original warranty period.

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. The sole and exclusive warranties for any software are set forth in the Contractor's Software License Agreement. This warranty is conditioned upon proper storage and shall be void in its entirety if the City modifies Products without prior written consent to and subsequent approval of any such modifications by Contractor or uses Products for any applications that require product listing or qualification not specifically included in the Contractor written quotation or proposal.

22. WARRANTY – SERVICES: INTENTIONALLY OMITTED

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 Contract 8891

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 under the Order 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 commences to cure such default and the cure cannot be accomplished in the ten (10) day period provided Contractor diligently pursues such cure until the default is remedied, 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: Intentionally Omitted.

29. **RETURN OF CONTRACTOR'S EQUIPMENT:** The City may return standard products, with Contractor's written approval, up to one year after the original invoice date ("Purchase Date") if they are new, in their original packaging, were properly stored, and have never been installed. A restocking fee of 25% of the product price shall apply if the product is returned less than six (6) months after the Purchase Date; 50% if returned after six (6) months from the Purchase Date. After one year, products may not be returned.

30. **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.

31. **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, provided such delay is communicated at least seven (7) business days prior to the original delivery date. Such delay in delivery shall not exceed thirty (30) days from the original delivery date. 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.

32. **TIME OF COMPLETION AND LIQUIDATED DAMAGES:** Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount of one half of one percent (0.05%) of the Contract price for each and every week or a pro-rated part thereof for each day of delay from the delivery due date provided in the contract, but not to exceed five percent (5%) of the price in total. 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.

33. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits and causes of action brought by a third-party and any resulting 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 arising from such third-party claims to the extent such third-party claims and damages result from (1) damage to or loss of the property of any); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person), 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, 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.

C. Assumption of Defense. Regarding Contractor's defense obligation: (a) Contractor shall assume the defense of an Indemnified Claim through counsel chosen by Contractor; and (b) City shall: (i) give prompt written notice of the Indemnified Claim to Contractor; (ii) provide reasonable assistance to Contractor in the defense of the Indemnified Claim; (iii) mitigate damages related to the Indemnified Claim; and (iv) give Contractor full control of all aspects of defense of the Indemnified Claim, including settlement, except as otherwise provided herein. Contractor shall obtain written consent from the City before settling the Indemnified Claim and acknowledges that City Council might have to approve a settlement. The City may, at its sole option and expense, participate in the defense of such third-party claim with counsel chosen by the City.

D. Exclusive Remedy. The indemnity provided by Contractor herein shall be City's exclusive remedy for Indemnified Claims and resulting damages.

E. Survival. Contractor's defense and indemnity obligations shall survive the expiration or termination of this Agreement only to the extent that the applicable statute of limitations for any Indemnified Claim for which Contractor has a defense or indemnity obligation extends beyond the expiration or termination of this Agreement.

34. LIMITATION OF LIABILITY: Contractor and its affiliates' aggregate liability to City, collectively, shall be limited to the amount of this Agreement for all claims and damages related to this Agreement; provided, however, no limitation of liability in regard to amount shall apply to claims and damages arising from Contractor's gross negligence or willful misconduct.. Notwithstanding anything in this Agreement to the contrary, the City of Denton and Contractor and its affiliates shall not be liable for any special, consequential, incidental, indirect, exemplary, or punitive damages, including, without limitation, any loss of profit or revenues, even if the other Party has been advised of the possibility of such damages. **Except as otherwise provided in this Section, the above damage waiver shall: (a) apply to all claims and Damages related to this Agreement, whether such arise in contract, tort (including negligence), or otherwise; (b) survive the expiration or termination of this Agreement**

35. INSURANCE: Intentionally Omitted.

36. 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.

37. 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.

38. 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.

39. 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 FROM THIRD-PARTY CLAIMS OF INFRINGEMENT TO THE EXTENT SUCH THIRD-PARTY CLAIMS ARISE OUT OF: (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 AND EXPENSE 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. IF A GOOD OR SERVICE BECOMES, OR IN CONTRACTOR'S REASONABLE OPINION IS LIKELY TO BECOME, THE SUBJECT OF A THIRD-PARTY CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OF AN INTELLECTUAL PROPERTY RIGHT, THEN CONTRACTOR SHALL, AT ITS SOLE EXPENSE AND DISCRETION: (A) EXCHANGE THE**

GOOD OR SERVICE WITH A NON-INFRINGEMENT GOOD OR SERVICE; (B) PROMPTLY PROCURE FOR INDEMNITEE THE RIGHT TO CONTINUE TO USE THE GOOD OR SERVICE; (C) MODIFY THE GOOD OR SERVICE TO MAKE IT NON-INFRINGEMENT, PROVIDED THAT THE MODIFIED GOOD OR SERVICE MEETS THE SPECIFICATIONS AND ALL OTHER APPLICABLE REQUIREMENTS UNDER THIS AGREEMENT; OR (D) REPURCHASE THE GOOD OR SERVICE FROM INDEMNITEE FOR A FAIR PORTION OF THIS ORIGINAL PRICE. CONTRACTOR SHALL NOT BE LIABLE FOR DAMAGES THAT ARISE AFTER CONTRACTOR OFFERS ONE OR MORE OF THE FOREGOING REMEDIES IN GOOD FAITH.

40. 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.

41. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and interests in and to the items listed in Exhibit F except for software (including firmware) which is licensed to the City. The City acknowledges that the Contractor's intellectual property is the sole property of the Contractor. By sale of Products or Services to the City, the Contractor does not transfer any of the Contractor's intellectual property rights (including, without limitation, rights to design or other work product). The City shall not remove or alter any trademarks, service marks or trade dress that identify the Contractor, nor use any trademarks, service marks, trade dress or any other intellectual property that, in the sole discretion of the Contractor, is confusingly similar to those of the Contractor. Any software (including firmware) included with the Products is owned by the Contractor (or its licensors) and is licensed, not sold, to the City. The City may use such software only with Products and only as intended by the Contractor. All software shall be provided subject to the then-current Contractor Software License Agreement.

42. 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.

43. 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

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comply with proper requests for information from an authorized representative of the federal, State, or local government.

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

49. 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,

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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.

50 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.

51 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.

52. 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.

53. 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.

54. 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.

D. Suspension during Dispute: If a dispute arises between the Parties, Contractor shall proceed with the performance of the Work unless: (a) the dispute must be resolved to properly proceed with the Work, including, but not limited to, a dispute regarding the scope of Contractor's work; or (b) the City fails to make timely payment of undisputed amounts. If Contractor suspends performance pursuant to this section, Contractor shall have no liability for any damages due to such suspension, including, but not limited to, delay damages.

55. 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.

56. **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.

57. **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.

58. **SURVIVABILITY OF OBLIGATIONS:** To the extent provided herein, 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.

59. **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.

60. **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.

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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.

61. 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”.

62. 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.

63. 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.

64. PREVAILING WAGE RATES: INTENTIONALL OMITTED

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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 or Contractor. 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.

71. 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.

72. 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.

73. 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. The City shall not have access to Contractor's composition of fixed rates or lump sums, the financial makeup of payroll burdens or to any costs expressed as a percentage of direct labor costs.

74. 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.

75. 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 Contract 8891

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

SOFTWARE LICENSE AGREEMENT

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8. **Governing Law and Dispute Resolution.** Intentionally Omitted.
9. **Miscellaneous.** Any modification of these Terms must be in a writing signed by an authorized officer of SEL. Licensee shall comply with all applicable laws, regulations, and orders of the United States or any other jurisdiction, including without limitation all applicable export laws, regulations, and orders. Any notice pursuant to this Agreement shall be deemed given when sent by registered or certified mail (return receipt requested), overnight delivery or fax (confirmed receipt and sent by mail) to an authorized officer at the address or fax number provided on the SEL sales order acknowledgment if to SEL or, if no such address or fax number is provided, at the registered headquarters of the other party. All rights and duties hereunder shall be for the sole and exclusive benefit of Licensee and SEL and not

for the benefit of any other party. The assignment or transfer by Licensee of any rights or duties hereunder without prior written consent of SEL shall not relieve Licensee of any obligations to SEL. No failure or delay by either party in exercising any right or remedy, or insisting upon strict compliance by the other party with any obligation in this Agreement, shall constitute a waiver of any right thereafter to demand exact compliance with this Agreement. The invalidity, in whole or part, of any provision in this Agreement shall not affect the remainder of such provision or any other provision and, where possible, shall be replaced by a valid provision that effects as close as possible the intent of the invalid provision. Neither party shall be liable for failure to perform or delay in performance of any obligation under this Agreement (except payment of amounts already due and owing) where such failure or delay results from any event beyond its reasonable control.

Exhibit E
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the Contract is awarded, in accordance with Government Code 2252.908.

The Contractor shall:

1. Log onto the State Ethics Commission Website at [:https://www.ethics.state.tx.us/filinginfo/1295/](https://www.ethics.state.tx.us/filinginfo/1295/)
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line.
(EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

Exhibit F**8891 - Protective Control Relays****KD Johnson (Schweitzer Engineering Laboratories, Inc.)**

Line #	Description	Mfgr	Mfgno	QTY	UOM	Unit
1	SECTION 1 - RELAYS					
2	Satellite Clock	SEL	240700013			
2.1	1-4 units			1	EA	<u>\$2,050.16</u>
2.2	5-19 Units			1	EA	<u>\$2,030.58</u>
2.3	20 - 49 Units			1	EA	<u>\$1,978.52</u>
2.4	Delivery					2 Weeks ARO
3	Line Current Differential		0311L13DA4254X2XX			
3.1	1-4 units			1	EA	<u>\$9,096.75</u>
3.2	5-19 Units			1	EA	<u>\$8,869.33</u>
3.3	20 - 49 Units			1	EA	<u>\$8,641.91</u>
3.4	Delivery					2 Weeks ARO
4	Line Current Differential		0311L13DA4254X5XX			
4.1	1-4 units			1	EA	<u>\$9,566.60</u>
4.2	5-19 Units			1	EA	<u>\$9,327.44</u>
4.3	20 - 49 Units			1	EA	<u>\$9,088.27</u>
4.4	Delivery			1		2 Weeks ARO
5	Line Current Differential		0311L13DD4254X2XX			
5.1	1-4 units			1	EA	<u>\$9,768.64</u>
5.2	5-19 Units			1	EA	<u>\$9,768.64</u>
5.3	20 - 49 Units			1	EA	<u>\$9,636.46</u>
5.4	Delivery					2 Weeks ARO
6	Line Current Differential		0311L13DD4254X5XX			
6.1	1-4 units			1	EA	<u>\$10,613.49</u>
6.2	5-19 Units			1	EA	<u>\$10,348.15</u>
6.3	20 - 49 Units			1	EA	<u>\$10,082.82</u>
6.4	Delivery					2 Weeks ARO
7	Breaker Protection		0351S6X3D4E5421			
7.1	1-4 units			1	EA	<u>\$4,580.15</u>
7.2	5-19 Units			1	EA	<u>\$4,465.65</u>
7.3	20 - 49 Units			1	EA	<u>\$4,351.14</u>
7.4	Delivery					2 Weeks ARO
8	Breaker Protection		0351S6X3D4F5422			
8.1	1-4 units			1	EA	<u>\$5,128.53</u>
8.2	5-19 Units			1	EA	<u>\$5,000.32</u>
8.3	20 - 49 Units			1	EA	<u>\$4,872.10</u>
8.4	Delivery					2 Weeks ARO
9	Breaker Protection		0351S7X3D4E5421			
9.1	1-4 units			1	EA	<u>\$5,440.10</u>
9.2	5-19 Units			1	EA	<u>\$5,304.10</u>
9.3	20 - 49 Units			1	EA	<u>\$5,168.10</u>
9.4	Delivery					2 Weeks ARO
10	Breaker Protection		0351S7X3D4F5422			
10.1	1-4 units			1	EA	<u>\$5,988.48</u>
10.2	5-19 Units			1	EA	<u>\$5,838.77</u>
10.3	20 - 49 Units			1	EA	<u>\$5,689.06</u>
10.4	Delivery					2 Weeks ARO
11	Current Differential		0387604X53XX4XX			
11.1	1-4 units			1	EA	<u>\$7,378.10</u>
11.2	5-19 Units			1	EA	<u>\$7,193.65</u>

Line #	Description	mtgr	mtgno	QTY	UOM	Unit
11.3	20 - 49 Units			1	EA	<u>\$7,009.20</u>
11.4	Delivery					2 Weeks ARO
12	Line Current Differential		04111L0X6X5B6DDX3474XXXX			
12.1	1-4 units			1	EA	<u>\$15,432.93</u>
12.2	5-19 Units			1	EA	<u>\$15,047.11</u>
12.3	20 - 49 Units			1	EA	<u>\$14,661.28</u>
12.4	Delivery					2 Weeks ARO
13	Line Current Differential		04111L0X6X5B6DDX357424XX			
13.1	1-4 units			1	EA	<u>\$16,149.55</u>
13.2	5-19 Units			1	EA	<u>\$15,745.81</u>
13.3	20 - 49 Units			1	EA	<u>\$15,342.07</u>
13.4	Delivery					2 Weeks ARO
14	Line Current Differential		04111L0X6X5C7DDX357424XX			
14.1	1-4 units			1	EA	<u>\$16,853.72</u>
14.2	5-19 Units			1	EA	<u>\$16,432.38</u>
14.3	20 - 49 Units			1	EA	<u>\$16,011.03</u>
14.4	Delivery					2 Weeks ARO
15	Bus Differential and Breaker Failure		0487B1X6X52XB1XE37EPXXX			
15.1	1-4 units			1	EA	<u>\$12,571.44</u>
15.2	5-19 Units			1	EA	<u>\$12,257.15</u>
15.3	20 - 49 Units			1	EA	<u>\$11,942.87</u>
15.4	Delivery					2 Weeks ARO
16	Bus Differential and Breaker Failure		0487B1X6X52XC3XE38PPXXX			
16.1	1-4 units			1	EA	<u>\$13,632.04</u>
16.2	5-19 Units			1	EA	<u>\$13,291.24</u>
16.3	20 - 49 Units			1	EA	<u>\$12,950.44</u>
16.4	Delivery					2 Weeks ARO
17	Transformer Protection		0487E3X611XXB1X435XXXXX			
17.1	1-4 units			1	EA	<u>\$10,335.57</u>
17.2	5-19 Units			1	EA	<u>\$10,077.18</u>
17.3	20 - 49 Units			1	EA	<u>\$9,818.79</u>
17.4	Delivery					2 Weeks ARO
18	Transformer Protection		0487E3X611XXB1X43624XXX			
18.1	1-4 units			1	EA	<u>\$11,052.19</u>
18.2	5-19 Units			1	EA	<u>\$10,775.89</u>
18.3	20 - 49 Units			1	EA	<u>\$10,499.58</u>
18.4	Delivery					2 Weeks ARO
19	Transformer Protection		0487E3X611XXC3X4374474X			
19.1	1-4 units			1	EA	<u>\$13,102.36</u>
19.2	5-19 Units			1	EA	<u>\$12,774.80</u>
19.3	20 - 49 Units			1	EA	<u>\$12,447.24</u>
19.4	Delivery					2 Weeks ARO
20	Overcurrent Relay		050120325613XB			
20.1	1-4 units			1	EA	<u>\$1,567.85</u>
20.2	5-19 Units			1	EA	<u>\$1,528.65</u>
20.3	20 - 49 Units			1	EA	<u>\$1,489.46</u>
20.4	Delivery					2 Weeks ARO
21	Overcurrent/Reclosing Relay		0551C0BX533X			
21.1	1-4 units			1	EA	<u>\$1,538.38</u>
21.2	5-19 Units			1	EA	<u>\$1,538.38</u>
21.3	20 - 49 Units			1	EA	<u>\$1,506.66</u>
21.4	Delivery					2 Weeks ARO

Line #	Description	Mgr	Itemno	QTY	UOM	Unit
22	Differential Relay		0587Z0X325312XX			
22.1	1-4 units			1	EA	<u>\$5,400.35</u>
22.2	5-19 Units			1	EA	<u>\$5,400.35</u>
22.3	20 - 49 Units			1	EA	<u>\$5,327.93</u>
22.4	Delivery					2 Weeks ARO
23	EPS Meter		0735VX20944CGXA4XX16101XX			
23.1	1-4 units			1	EA	<u>\$4,997.06</u>
23.2	5-19 Units			1	EA	<u>\$4,872.13</u>
23.3	20 - 49 Units			1	EA	<u>\$4,747.21</u>
23.4	Delivery					2 Weeks ARO
24	EPS Meter		0735VX20944FGXA4XX16201XX			
24.1	1-4 units			1	EA	<u>\$5,508.65</u>
24.2	5-19 Units			1	EA	<u>\$5,370.93</u>
24.3	20 - 49 Units			1	EA	<u>\$5,233.22</u>
24.4	Delivery					2 Weeks ARO
25	Transformer Protection Relay		07873EE1A2A3A7685A830			
25.1	1-4 units			1	EA	<u>\$8,884.88</u>
25.2	5-19 Units			1	EA	<u>\$8,662.76</u>
25.3	20 - 49 Units			1	EA	<u>\$8,440.64</u>
25.4	Delivery					3 Weeks ARO
26	Logic Processor		2100XX4443			
26.1	1-4 units			1	EA	<u>\$3,701.51</u>
26.2	5-19 Units			1	EA	<u>\$3,608.97</u>
26.3	20 - 49 Units			1	EA	<u>\$3,516.43</u>
26.4	Delivery					2 Weeks ARO
27	Programmable Automation Controller		241101AA0BA1A0X0130			
27.1	1-4 units			1	EA	<u>\$2,272.64</u>
27.2	5-19 Units			1	EA	<u>\$2,215.82</u>
27.3	20 - 49 Units			1	EA	<u>\$2,159.01</u>
27.4	Delivery					3 Weeks ARO
28	Programmable Automation Controller		241101AA0BA1A0X0840			
28.1	1-4 units			1	EA	<u>\$3,123.23</u>
28.2	5-19 Units			1	EA	<u>\$3,045.15</u>
28.3	20+ Units			1	EA	<u>\$2,967.07</u>
28.4	Delivery					3 Weeks ARO
29	Transformer Monitor		241421ABACACA850130			
29.1	1-4 units			1	EA	<u>\$2,899.53</u>
29.2	5-19 Units			1	EA	<u>\$2,827.04</u>
29.3	20 - 49 Units			1	EA	<u>\$2,754.55</u>
29.4	Delivery					3 Weeks ARO
30	Transformer Monitor		241421ABACACA850840			
30.1	1-4 units			1	EA	<u>\$3,750.12</u>
30.2	5-19 Units			1	EA	<u>\$3,656.37</u>
30.3	20 - 49 Units			1	EA	<u>\$3,562.61</u>
30.4	Delivery					3 Weeks ARO
31	DPAC		24402311A1A11630			
31.1	1-4 units			1	EA	<u>\$1,308.62</u>
31.2	5-19 Units			1	EA	<u>\$1,275.90</u>
31.3	20+ Units			1	EA	<u>\$1,243.19</u>
31.4	Delivery					2 Weeks ARO
32	DPAC		24402311A1A11840			
32.1	1-4 units			1	EA	<u>\$2,065.13</u>

Line #	Description	Mgr	Mgrno	QTY	UOM	Unit
32.2	5-19 Units			1	EA	<u>\$2,013.50</u>
32.3	20 - 49 Units			1	EA	<u>\$1,961.87</u>
32.4	Delivery					2 Weeks ARO
33	DPAC		24402312A1A11630			
33.1	1-4 units			1	EA	<u>\$1,308.62</u>
33.2	5-19 Units			1	EA	<u>\$1,275.90</u>
33.3	20 - 49 Units			1	EA	<u>\$1,243.19</u>
33.4	Delivery					2 Weeks ARO
34	DPAC		24402312A1A11840			
34.1	1-4 units			1	EA	<u>\$2,065.13</u>
34.2	5-19 Units			1	EA	<u>\$2,013.50</u>
34.3	20 - 49 Units			1	EA	<u>\$1,961.87</u>
34.4	Delivery					2 Weeks ARO
35	Satellite Network Clock		2488PRAX2281CX23X			
35.1	1-4 units			1	EA	<u>\$8,593.97</u>
35.2	5-19 Units			1	EA	<u>\$8,379.12</u>
35.3	20 - 49 Units			1	EA	<u>\$8,164.27</u>
35.4	Delivery					2 Weeks ARO
36	Managed Ethernet Switch		2730M0APAX1111AAAAX0			
36.1	1-4 units			1	EA	<u>\$3,163.27</u>
36.2	5-19 Units			1	EA	<u>\$3,084.19</u>
36.3	20 - 49 Units			1	EA	<u>\$3,005.11</u>
36.4	Delivery					3 Weeks ARO
37	Managed Ethernet Switch		2730M0ARAX1111AAAAX0			
37.1	1-4 units			1	EA	<u>\$3,000.00</u>
37.2	5-19 Units			1	EA	<u>\$2,925.00</u>
37.3	20+ Units			1	EA	<u>\$2,850.00</u>
37.4	Delivery					3 Weeks ARO
38	Unmanaged Ethernet Switch		2730U0APAX1111AAAAX0			
38.1	1-4 units			1	EA	<u>\$2,207.20</u>
38.2	5-19 Units			1	EA	<u>\$2,152.02</u>
38.3	20 - 49 Units			1	EA	<u>\$2,096.84</u>
38.4	Delivery					3 Weeks ARO
39	Unmanaged Ethernet Switch		2730U0ARAX1111AAAAX0			
39.1	1-4 units			1	EA	<u>\$2,043.93</u>
39.2	5-19 Units			1	EA	<u>\$1,992.83</u>
39.3	20 - 49 Units			1	EA	<u>\$1,941.73</u>
39.4	Delivery					3 Weeks ARO
40	Unmanaged Ethernet Switch		2730U0ARAX1113AAAAX0			
40.1	1-4 units			1	EA	<u>\$3,190.53</u>
40.2	5-19 Units			1	EA	<u>\$3,110.77</u>
40.3	20 - 49 Units			1	EA	<u>\$3,031.00</u>
40.4	Delivery					3 Weeks ARO
41	Automation Controller		3355#FH8B			
41.1	1-4 units			1	EA	<u>\$10,892.10</u>
41.2	5-19 Units			1	EA	<u>\$10,619.80</u>
41.3	20 - 49 Units			1	EA	<u>\$10,347.50</u>
41.4	Delivery					5 Weeks ARO
42	Automation Controller		3355#YVYT			
42.1	1-4 units			1	EA	<u>\$8,929.99</u>
42.2	5-19 Units			1	EA	<u>\$8,706.74</u>
42.3	20 - 49 Units			1	EA	<u>\$8,483.49</u>

Line #	Description	Mtrgr	Mtrgno	QTY	UOM	Unit
42.4	Delivery					5 Weeks ARO
43	Automation Controller		3355#DOLG			
43.1	1-4 units			1	EA	<u>\$10,336.48</u>
43.2	5-19 Units			1	EA	<u>\$10,078.07</u>
43.3	20 - 49 Units			1	EA	<u>\$9,819.66</u>
43.4	Delivery					5 Weeks ARO
44	Port Server		3610X3A0XXX0			
44.1	1-4 units			1	EA	<u>\$2,442.75</u>
44.2	5-19 Units			1	EA	<u>\$2,381.68</u>
44.3	20 - 49 Units			1	EA	<u>\$2,320.61</u>
44.4	Delivery					2 Weeks ARO
45	Ethernet Security Gateway		3620X3A0XXX0			
45.1	1-4 units			1	EA	<u>\$3,788.75</u>
45.2	5-19 Units			1	EA	<u>\$3,694.03</u>
45.3	20 - 49 Units			1	EA	<u>\$3,599.31</u>
45.4	Delivery					2 Weeks ARO
46	Feeder Protection Relay		751501A4A2A7085AG30			
46.1	1-4 units			1	EA	<u>\$6,939.40</u>
46.2	5-19 Units			1	EA	<u>\$6,765.92</u>
46.3	20 - 49 Units			1	EA	<u>\$6,592.43</u>
46.4	Delivery					3 Weeks ARO
47	Control Switch Module		951031B2			
47.1	1-4 units			1	EA	<u>\$488.37</u>
47.2	5-19 Units			1	EA	<u>\$488.37</u>
47.3	20+ Units			1	EA	<u>\$488.37</u>
47.4	Delivery					2 Weeks ARO
48	Ethernet Switch					
48.1	1-4 units			1	EA	<u>\$587.01</u>
48.2	5-19 Units			1	EA	<u>\$572.33</u>
48.3	20 - 49 Units			1	EA	<u>\$557.66</u>
48.4	Delivery					2 Weeks ARO
49	Ethernet Switch					
49.1	1-4 units			1	EA	<u>\$3,862.50</u>
49.2	5-19 Units			1	EA	<u>\$3,765.94</u>
49.3	20 - 49 Units			1	EA	<u>\$3,669.38</u>
49.4	Delivery					2 Weeks ARO
50	Ethernet Switch					
50.1	1-4 units			1	EA	<u>\$4,032.45</u>
50.2	5-19 Units			1	EA	<u>\$3,931.64</u>
50.3	20 - 49 Units			1	EA	<u>\$3,830.83</u>
50.4	Delivery					2 Weeks ARO
51	SECTION 2 - MISCELLANEOUS HARDWARE AND CABLES					
52	PRP Driver for Windows		5815-0001			
52.1	1-4 units			1	EA	<u>\$1,211.40</u>
52.2	5-19 Units			1	EA	<u>\$1,211.40</u>
52.3	20+ Units			1	EA	<u>\$1,211.40</u>
52.4	Delivery					1
53	SFP		8109-01			
53.1	1-4 units			1	EA	<u>\$100.00</u>
53.2	5-19 Units			1	EA	<u>\$100.00</u>
53.3	20+ Units			1	EA	<u>\$100.00</u>
53.4	Delivery					1
54	SFP Transceiver - single mode		8130-01			
54.1	1-4 units			1	EA	<u>\$218.00</u>

Line #	Description	Unit	Unit	QTY	UOM	Unit
54.2	5-19 Units			1	EA	<u>\$218.00</u>
54.3	20+ Units			1	EA	<u>\$218.00</u>
54.4	Delivery					1
55	SFP Transceiver - multi mode		8131-01			
55.1	1-4 units			1	EA	<u>\$100.00</u>
55.2	5-19 Units			1	EA	<u>\$100.00</u>
55.3	20+ Units			1	EA	<u>\$100.00</u>
55.4	Delivery					1
56	Keyboard w/ mouse and locking tray		91610050			
56.1	1-4 units			1	EA	\$995.42
56.2	5-19 Units			1	EA	\$995.42
56.3	20+ Units			1	EA	\$995.42
56.4	Delivery					1
57	Power Supply		9331#82C9			
57.1	1-4 units			1	EA	\$520.95
57.2	5-19 Units			1	EA	\$520.95
57.3	20+ Units			1	EA	\$520.95
57.4	Delivery					2
58	Gas Tube Coaxial Surge Protector		200-2005			
58.1	1-4 units			1	EA	\$143.32
58.2	5-19 Units			1	EA	\$143.32
58.3	20+ Units			1	EA	\$143.32
58.4	Delivery					1
59	Mounting Bracket for Surge Protector		200-2006			
59.1	1-4 units			1	EA	\$8.09
59.2	5-19 Units			1	EA	\$8.09
59.3	20+ Units			1	EA	\$8.09
59.4	Delivery					1
60	RG-58A/U Coaxial Cable with BNC male connectors on both ends, 2' length		C953			
60.1	Each		C953#B986 - 2"	1	EA	\$31.47
60.2	*Addition cable over 2' - RG-58A/U			1	EA	\$32.19
		The part number for 3" is C953#MCK7. For ea ft the price is different.				
60.3	Delivery					2 Weeks ARO
61	RG-58A/U Coaxial Cable with BNC male connector to ferrule connector, 2' length*		C962			
61.1	Each			1	EA	\$31.47
		The part number for 2" is C962#9B6N				
61.2	*Addition cable over 2' - RG-58A/U			1	FT	\$32.19
		The part number for 3" is C962#0101. For EA FT the price is different.				
61.3	Delivery					2 Weeks ARO
62	RG-58A/U Coaxial Cable with BNC male connector to ferrule connector, 2' length*					
62.1	Each			1	EA	\$31.47

Line #	Description	Unit	Qty	UOM	Unit
			The part number for 2" is C962#9B6N		
62.2	*Addition cable over 2' - RG-58A/U		1	FT	\$32.19
			3" is C962#0101. For ea ft the price is different.		
62.3	Delivery				2 Weeks ARO
63	RG-8 Coaxial Cable with TNC male connectors on both ends, 8' length**				
			C965C		
63.1	Each		1	EA	\$62.76
			8 ft is C965C#HNLA		
63.2	**Addition cable over 8' - RG-8		1	FT	\$64.98
			9 ft is C965C#HBN1. For ea ft the price is different.		
63.3	Delivery				2 Weeks ARO
64	EIA-232 serial adapter cable with IRIG-B - 9 pin Male to Female BNC, 6' length				
			C478N		
64.1	Each		1	EA	\$44.28
			6 feet is C478N#4FDB		
64.2	Delivery				2 Weeks ARO
65	EIA-232 serial adapter cable with IRIG-B - 9 pin Male to 9 pin Male, 8' length				
			C273A		
65.1	Each		1	EA	\$47.03
			8 ft is C273A#NNHH		
65.2	Delivery				2 Weeks ARO.

* Prices include ground freight prepaid within the 48 contiguous United States via SEL's preferred carrier.

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.

Schweitzer Engineering Laboratories, 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:



12/16/2025

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](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: 543BEC0E-7B5D-412D-90B6-C298A94A747D

Status: Sent

Subject: Please DocuSign: City Council Contract 8891 Protective Control Relays

Source Envelope:

Document Pages: 41

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: 198.49.140.10

Record Tracking

Status: Original

Holder: Christa Christian

Location: DocuSign

12/3/2025 11:49:37 AM

Christa.Christian@cityofdenton.com

Signer Events

Signature

Timestamp

Christa Christian

Completed

Sent: 12/3/2025 11:56:56 AM

Christa.Christian@cityofdenton.com

Viewed: 12/3/2025 11:57:06 AM

Purchasing Supervisor

Signed: 12/3/2025 11:57:15 AM

City of Denton

Using IP Address: 198.49.140.10

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

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Lori Hewell

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lori.hewell@cityofdenton.com

Viewed: 12/3/2025 1:20:35 PM

Purchasing Manager

Signed: 12/3/2025 1:48:12 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:

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Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 12/3/2025 1:48:16 PM

marcella.lunn@cityofdenton.com

Viewed: 12/3/2025 1:49:40 PM

Senior Deputy City Attorney

Signed: 12/3/2025 1:57:11 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

Jeremy Nickels

DocuSigned by:
Jeremy Nickels
3398DE909A1D4D4...

Sent: 12/3/2025 1:57:15 PM

dita_wexler@selinc.com

Resent: 12/15/2025 1:00:30 PM

VP of Finance, SEL Inc

Viewed: 12/15/2025 1:14:17 PM

SEL, ES

Signed: 12/16/2025 9:26:41 AM

Security Level: Email, Account Authentication (None)

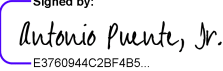
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Using IP Address: 136.226.56.173

Electronic Record and Signature Disclosure:

Accepted: 12/15/2025 1:14:17 PM

ID: 6ca432af-7e10-48fe-b384-c9e511c3a8f3

Signer Events	Signature	Timestamp
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: 12/16/2025 9:26:45 AM Viewed: 12/16/2025 10:39:28 AM Signed: 12/16/2025 10:39:47 AM

Electronic Record and Signature Disclosure:
Accepted: 12/16/2025 10:39:28 AM
ID: a02700f9-9166-428c-8265-3aee65e801e8

Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	Sent: 12/16/2025 10:39:51 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

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) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/3/2025 11:57:19 AM

Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 12/16/2025 10:39:51 AM Viewed: 12/16/2025 4:47:58 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Mark Zimmerer mark.zimmerer@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 12/10/2025 12:23:13 PM ID: 2449cb53-8853-4a0e-ad1e-692d238a4dd6		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/3/2025 11:56:56 AM
Payment Events	Status	Timestamps
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.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

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- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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 Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Rehrig Pacific Company, for the purchase of residential trash and recycling carts for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8894 – awarded to Rehrig Pacific Company, 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 \$3,115,450.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Solid Waste and Recycling Department is responsible for providing refuse and recycling containers to residential customers throughout the City. These containers must comply with specific material and design standards to ensure compatibility with the collection vehicles and to withstand regular use.

As the City continues to grow, there is an ongoing need to deploy containers at new residential locations. Additionally, containers must be replaced periodically due to damage, wear, or defects. This procurement ensures that the department can maintain service quality and meet the demands of both new and existing customers.

The specified containers will be delivered to the City of Denton and will be preprinted with inventory/tracking numbers.

Utilizing the historical expenditure of the previous contract on a five (5) year spend and forecasting a growth rate of 10%, allowed us to estimate the total purchase amount of this contract.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Residential Carts	\$510,303	561,333	617,466	679,213	747,135	\$3,115,450

Request for Proposals was sent to 1,274 prospective suppliers, including 54 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Eight (8) proposals were received, references were checked, and proposals were evaluated based upon published criteria, including delivery, compliance with specifications, probable

performance, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Rehrig Pacific Company was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	100, 165, 545, 830, 906, 926, & 968
Notifications sent for Solicitation sent in IonWave:	1,274
Number of Suppliers that viewed Solicitation in IonWave:	23
HUB-Historically Underutilized Business Invitations sent out:	150
SBE-Small Business Enterprise Invitations sent out:	410
Responses from Solicitation:	8

RECOMMENDATION

Award a contract with Rehrig Pacific Company, for the purchase of residential trash and recycling carts for the Solid Waste and Recycling Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$3,115,450.

PRINCIPAL PLACE OF BUSINESS

Rehrig Pacific Company
Dallas, TX

SUSTAINABILITY MEASURES

This contract aligns with the Material Resource Management portion of the City's sustainability plan. Residential carts are crucial for recommendations in the Comprehensive Solid Waste Management Strategy that the Solid Waste and Recycling Department is following. Yard waste carts allow for a more robust and efficient compost collection process. Carts also play a crucial role in the food waste diversion programs that are being tested throughout the community. Refuse and recycling carts keep waste contained in our neighborhoods and allow for more efficient collection via automated side-load vehicles in most neighborhoods. Containerization of recycling also helps limit the amount of contamination that can be caused by rain or snow. Rehrig Pacific Co. uses up to 40% recycled plastic in the manufacturing of its carts, as well.

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 products and services will be funded from the department's operating budget on an as-needed basis. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$3,115,450. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

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

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

For information concerning this acquisition, contact: J.J. Tips, 940-349-8042.

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

Exhibit 2
RFP 8894 - Pricing Evaluation for Trash and Recycle Carts

Respondent's Business Name:				Rehrig Pacific Company		Cascade Engineering, Inc.		Toter, LLC		Schaefer Plastics North America, LLC		Sierra Container Group, LLC		Otto Environmental Systems		TOCA LLC		Greenville Enterprises LLC	
Principal Place of Business (City and State):				Dallas, TX		Grand Rapids, MI		Statesville, NC		Charlotte, NC		Ocala, FL		Charlotte, NC		Keller, TX		Southlake, TX	
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended	Unit	Extended
1	95 Gallon Trash Cart (Green) w/logo	2,106	EA	\$40.17	\$84,598.02	\$49.37	\$103,973.22	\$47.72	\$100,498.32	\$47.42	\$99,866.52	\$54.50	\$114,777.00	\$50.48	\$106,310.88	\$121.29	\$255,436.74	\$390.00	\$821,340.00
2	95 Gallon Recycle Cart (Blue) w/logo	2,106	EA	\$40.17	\$84,598.02	\$49.37	\$103,973.22	\$47.72	\$100,498.32	\$47.42	\$99,866.52	\$54.50	\$114,777.00	\$50.48	\$106,310.88	\$114.79	\$241,747.74	\$375.00	\$789,750.00
3	65 Gallon Trash Cart (Green) w/logo	1,296	EA	\$43.27	\$56,077.92	\$45.24	\$58,631.04	\$42.56	\$55,157.76	\$42.28	\$54,794.88	\$49.50	\$64,152.00	\$46.70	\$60,523.20	\$81.51	\$105,636.96	\$390.00	\$505,440.00
4	65 Gallon Recycle Cart (Blue) w/logo	1,296	EA	\$43.27	\$56,077.92	\$45.24	\$58,631.04	\$42.56	\$55,157.76	\$42.28	\$54,794.88	\$49.50	\$64,152.00	\$46.70	\$60,523.20	\$79.56	\$103,109.76	\$390.00	\$505,440.00
5	95 Gallon Yard Waste Cart (Brown) w/logo	2,106	EA	\$40.17	\$84,598.02	\$49.37	\$103,973.22	\$51.47	\$108,395.82	\$47.42	\$99,866.52	\$54.50	\$114,777.00	\$50.48	\$106,310.88	\$121.29	\$255,436.74	\$375.00	\$789,750.00
6	35 Gallon Cart w/logo	1	EA	\$40.00	\$40.00	\$40.02	\$40.02	\$40.46	\$40.46	\$36.96	\$36.96	\$43.50	\$43.50	\$42.10	\$42.10	\$60.84	\$60.84	\$335.00	\$335.00
7	65 Gallon Blue Recycling Lid w/Recycling Label	1	EA	\$19.80	\$19.80	\$16.00	\$16.00	\$17.64	\$17.64	\$14.42	\$14.42	\$16.00	\$16.00	\$19.00	\$19.00	\$13.00	\$13.00	\$365.00	\$365.00
8	65 Gallon Green Trash Lid	1	EA	\$18.00	\$18.00	\$13.50	\$13.50	\$17.64	\$17.64	\$12.00	\$12.00	\$14.00	\$14.00	\$17.00	\$17.00	\$13.00	\$13.00	\$365.00	\$365.00
9	95 Gallon Blue Recycling Lid w/Recycling Label	1	EA	\$19.80	\$19.80	\$16.70	\$16.70	\$19.49	\$19.49	\$14.42	\$14.42	\$17.00	\$17.00	\$19.00	\$19.00	\$13.00	\$13.00	\$325.00	\$325.00
10	95 Gallon Green Trash Lid	1	EA	\$18.00	\$18.00	\$14.20	\$14.20	\$19.49	\$19.49	\$12.00	\$12.00	\$15.00	\$15.00	\$17.00	\$17.00	\$13.00	\$13.00	\$425.00	\$425.00
11	95 Gallon Brown Yard Waste Lid w/Ventilation	1	EA	\$23.00	\$23.00	\$19.20	\$19.20	\$23.24	\$23.24	\$13.75	\$13.75	No Bid	\$425.00	\$17.00	\$17.00	\$13.00	\$13.00	\$425.00	\$425.00
12	Recycling In-mold Label	1	EA	\$1.80	\$1.80	\$2.50	\$2.50	\$2.15	\$2.15	\$2.42	\$2.42	\$2.00	\$2.00	\$2.00	\$2.00	\$6.50	\$6.50	\$480.00	\$480.00
13	Gravity Lock	1	EA	\$36.00	\$36.00	\$5.00	\$5.00	\$40.00	\$40.00	\$40.48	\$40.48	\$5.00	\$5.00	\$23.00	\$23.00	\$5.98	\$5.98	\$380.00	\$380.00
14	10-inch Plastic Wheel	1	EA	\$12.00	\$12.00	\$5.50	\$5.50	\$4.50	\$4.50	\$5.00	\$5.00	\$4.00	\$4.00	\$5.00	\$5.00	\$7.15	\$7.15	\$85.00	\$85.00
15	12-inch Plastic Wheel	1	EA	\$12.00	\$12.00	\$6.00	\$6.00	No Bid	\$105.00	\$5.50	\$5.50	No Bid	\$105.00	\$6.00	\$6.00	\$8.45	\$8.45	\$105.00	\$105.00
16	RFID Handheld Reader	1	EA	\$4,500.00	\$4,500.00	\$2,000.00	\$2,000.00	\$1,250.00	\$1,250.00	\$1,200.00	\$1,200.00	No Bid	\$4,500.00	2750	\$2,750.00	\$156.00	\$156.00	\$3,800.00	\$3,800.00
Total:				\$370,650.30		\$431,320.36		\$421,247.59		\$410,546.27		\$477,781.50		\$442,896.14		\$961,677.86		\$3,418,810.00	

Evaluation										
Item #	Scoring Criteria	Rehrig Pacific Company	Cascade Engineering, Inc.	Toter, LLC	Schaefer Plastics North America, LLC	Sierra Container Group, LLC	Otto Environmental Systems	TOCA LLC	Greenville Enterprises LLC	
1	Delivery/Project Schedule - 15%	12.00	12.00	12.00	10.00	10.00	11.00	12.00	10.00	
2	Compliance with Specifications - 20%	16.00	14.67	13.33	12.00	12.00	10.67	8.00	6.67	
3	Probable Performance - 30%	26.00	20.00	20.00	18.00	18.00	16.00	10.00	10.00	
4	Price, Total Cost of Ownership - 35%	35.00	30.08	30.80	31.60	27.15	29.29	13.49	3.79	
	Total Score:	89.00	76.75	76.13	71.60	67.15	66.96	43.49	30.46	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH REHRIG PACIFIC COMPANY, FOR THE PURCHASE OF RESIDENTIAL TRASH AND RECYCLING CARTS FOR THE SOLID WASTE AND RECYCLING DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8894 – AWARDED TO REHRIG PACIFIC COMPANY, 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 \$3,115,450.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the purchase of residential trash and recycling carts for the Solid Waste and Recycling 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 [Garbage and solid waste removal, collection, and disposal]; 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>
8894	Rehrig Pacific Company	\$3,115,450.00

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 _____, 2026.

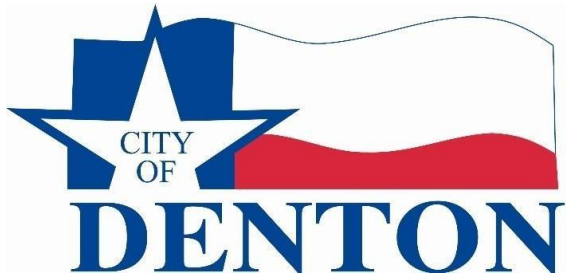
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

RFP	8894
File Name	TRASH AND RECYCLE CARTS
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND REHRIG PACIFIC COMPANY
(Contract #8894)**

THIS CONTRACT is made and entered into this date _____, by and between REHRIG PACIFIC COMPANY a Delaware Corporation, whose address 625 W. Mockingbird Lane, Dallas, Texas 75247, 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 #8894 Trash & Recycle Carts, 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 8894 (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.

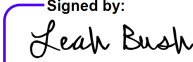
CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

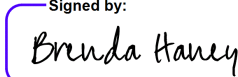
ATTEST: _____
_____, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____
Signed by: Leah Bush
2A936B08B5D7485

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

 _____
Signed by: Brenda Haney
C3C63BE563154A1...
SIGNATURE PRINTED NAME

Director

TITLE

Director

DEPARTMENT

CONTRACTOR

BY: _____
C083892036CE4C1...
AUTHORIZED SIGNATURE

Printed Name: Eric Chambers

Title: Vice President

740.816.8838

PHONE NUMBER

echambers@rehrig.com

EMAIL ADDRESS

2025- echambers@rehrig.com

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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 \$3,115,450.00. Pricing shall be per Exhibit E attached.

7. Delivery Lead Time

Products or services will be delivered 45-60 days after the receipt of order from the City.

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 C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

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

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA") ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. INVOICES:

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

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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 8894

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 8894

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 Contract 8894

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.

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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.

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

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to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the 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/](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

					Rehrig Pacific Company
Line #	Description	Mfgr	QTY	UOM	Unit Pricing
1	95 Gallon Trash Cart (Green) w/logo (Cart/wheels and axel)	Rehrig	2106	EA	\$40.17
1 ALT1	96 Gallon Trash Cart (Green) w/logo, 10" wheels, and solid axle, AND LID	Rehrig	2106	EA	\$45.17
2	95 Gallon Recycle Cart (Blue) w/logo (Cart/wheels, and axel)	Rehrig	2106	EA	\$40.17
2 ALT1	96 Gallon Recycle Cart (Blue) w/logo, 10" wheels, and solid axle, AND LID . Pricing does not include the optional in-mold label.	Rehrig	2106	EA	\$45.17
3	65 Gallon Trash Cart (Green) w/logo (with wheels axel and lid)	Rehrig	1296	EA	\$43.27
4	65 Gallon Recycle Cart (Blue) w/logo (with wheels, axel, and lid)	Rehrig	1296	EA	\$43.27
5	95 Gallon Yard Waste Cart (Brown) w/logo (Cart Only)	Rehrig	2106	EA	\$40.17
5 ALT1	96 Gallon Yard Waste Cart (Brown) w/logo, 10" wheels, and solid axle. PRICING DOES INCLUDE THE VENTED LID.	Rehrig	2106	EA	\$50.17
6	35 Gallon Cart w/logo (with wheels, axel, and lid)	Rehrig	1	EA	\$40.00
7	65 Gallon Blue Recycling Lid w/Recycling Label	Rehrig	1	EA	\$19.80
8	65 Gallon Green Trash Lid	Rehrig	1	EA	\$18.00
9	95 Gallon Blue Recycling Lid w/Recycling Label	Rehrig	1	EA	\$19.80
10	95 Gallon Green Trash Lid	Rehrig	1	EA	\$18.00
11	95 Gallon Brown Yard Waste Lid w/Ventilation	Rehrig	1	EA	\$23.00
12	Recycling In-mold Label		1	EA	\$1.80
13	Gravity Lock		1	EA	\$36.00
13 ALT1	Gravity lock - not installed-can be placed on during manufacturing	Safewaste	1	EA	\$4.10
14	10-inch Plastic Wheel		1	Per Set	\$12.00
15	12-inch Plastic Wheel		1	Per Set	\$12.00
16	RFID Handheld Reader		1	EA	\$4,500.00

All prices include freight.

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.

REHRIG PACIFIC COMPANY

2 ☒ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☒

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☒

No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐

Yes

☒

No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☐ **I have no Conflict of Interest to disclose.**

5 Signed by:

Eric Chambers

12/3/2025

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: 223475B2-5A84-4281-94E0-1E2590D2143C

Status: Sent

Subject: Please DocuSign: City Council Contract 8894 Trash and Recycle Carts

Source Envelope:

Document Pages: 31

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Crystal Westbrook

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

crystal.westbrook@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Crystal Westbrook

Location: DocuSign

11/18/2025 9:36:52 AM

crystal.westbrook@cityofdenton.com

Signer Events

Signature

Timestamp

Crystal Westbrook

Completed

Sent: 11/18/2025 9:42:45 AM

crystal.westbrook@cityofdenton.com

Viewed: 11/18/2025 9:43:01 AM

Senior Buyer

Signed: 11/18/2025 9:45:11 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: 11/18/2025 9:45:13 AM

lori.hewell@cityofdenton.com

Viewed: 11/18/2025 9:48:51 AM

Purchasing Manager

Signed: 11/18/2025 9:49:24 AM

City of Denton

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Leah Bush

Signed by:

2A936B08B5D7485...

Sent: 11/18/2025 2:55:11 PM

leah.bush@cityofdenton.com

Viewed: 11/19/2025 11:55:54 AM

Security Level: Email, Account Authentication
(None)

Signed: 11/19/2025 4:05:23 PM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Accepted: 11/19/2025 11:55:54 AM

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Eric Chambers

Signed by:

C083892036CE4C1...

Sent: 11/19/2025 4:05:26 PM

echambers@rehrig.com

Resent: 12/1/2025 10:06:47 AM

Vice President

Resent: 12/3/2025 9:38:09 AM

Security Level: Email, Account Authentication
(None)

Viewed: 12/3/2025 9:38:58 AM

Signed: 12/3/2025 11:03:24 AM

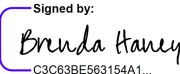
Signature Adoption: Pre-selected Style

Using IP Address: 23.245.197.123

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Signer Events	Signature	Timestamp
Brenda Haney brenda.haney@cityofdenton.com Director Security Level: Email, Account Authentication (None)	Signed by:  C3C63BE563154A1... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/3/2025 11:03:28 AM Viewed: 12/3/2025 11:16:20 AM Signed: 12/3/2025 11:16:33 AM

Electronic Record and Signature Disclosure:
Accepted: 12/3/2025 11:16:20 AM
ID: 4c94403c-3c5e-48c6-a3cc-65abb57e2012

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

Sent: 12/3/2025 11:16:39 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

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)

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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

COPIED

Sent: 11/18/2025 2:55:14 PM

Carbon Copy Events	Status	Timestamp
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: 12/3/2025 11:16:39 AM Viewed: 12/4/2025 9:19:40 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
James Tips james.tips@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 11/20/2025 8:25:57 AM ID: 06fe2d5d-39d2-4415-94bb-653bad59118b		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
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Envelope Updated	Security Checked	12/3/2025 9:38:08 AM
Envelope Updated	Security Checked	12/3/2025 9:38:08 AM
Envelope Updated	Security Checked	12/3/2025 9:38:08 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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.

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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, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: January 12, 2026

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with New Waste Concepts Inc, for the purchase, lease, and repairs of spray on cover equipment and supplies for the Fleet Services Department, which is the sole provider of this equipment and associated supplies, 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 8956 – awarded to New Waste Concepts Inc, for three (3) years, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$724,500.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The City of Denton Fleet Services Department is establishing a contract with New Waste Concepts Inc, the sole source provider for the purchase, lease, and repairs of spray on cover equipment and supplies for use at the Solid Waste Landfill. Due to Texas Commission of Environmental Quality (TCEQ) requirements related to permit 1590B, New Waste Concepts Inc's proprietary equipment and supplies are the only acceptable items allowed for use at the City Landfill.

The 252-acre Type I Municipal Solid Waste (MSW) Landfill disposes of over 1,000 tons of waste per day. According to TCEQ Permit 1590B Settlement Agreement Section 2.1.3 Odor Control, the Landfill had to cease the use of tarps for Alternative Daily Cover (ADC) except when temperatures are below 32° Fahrenheit, more than one (1) inch of rainfall has fallen in the prior 24 hours as measured at the Denton Municipal Airport, or the supplier is delayed. New Waste Concepts Inc is the TCEQ-specified provider of equipment and supplies necessary for compliance with Permit 1590B Permit Part IV, Appendix H Alternative Daily Cover Plan Settlement Agreement.

Additionally, the contract encompasses repair services for assets necessitating specialized diagnostic equipment. The Fleet Services Department 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 levels and includes estimates for future assets and services.

Estimated Contract Expenses						
Category	2026	2027	2028	2029	2030	Total
Asset Additions	\$0	\$0	\$150,000	\$0	\$160,000	\$310,000
Asset Replacements	140,000	0	0	0	0	140,000
Repair Services	30,000	30,000	50,000	50,000	80,000	240,000
Sub Total	\$170,000	\$30,000	\$200,000	\$50,000	\$240,000	\$690,000
Contingency 5%	8,500	1,500	10,000	2,500	12,000	34,500
Total	\$178,500	\$31,500	\$210,000	\$52,500	\$252,000	\$724,500

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and service are exempt from competitive bidding, if over \$50,000, shall be awarded by the governing body.

RECOMMENDATION

Award with a contract to New Waste Concepts Inc, as a sole source supplier, for the purchase, lease, and repairs of spray on cover equipment and supplies for the Fleet Services Department, in a three (3) year, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$724,500.

PRINCIPAL PLACE OF BUSINESS

New Waste Concepts Inc
Perrysburg, OH

ESTIMATED SCHEDULE OF PROJECT

This is an initial three (3) year contract with options to extend the contract for two (2) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products and services will be funded from the department's budgeted operating and capital replacement accounts. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is \$724,500. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

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

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

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

Legal point of contact: Leah Bush 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 NEW WASTE CONCEPTS INC, FOR THE PURCHASE, LEASE, AND REPAIRS OF SPRAY ON COVER EQUIPMENT AND SUPPLIES FOR THE FLEET SERVICES DEPARTMENT, WHICH IS THE SOLE PROVIDER OF THIS EQUIPMENT AND ASSOCIATED SUPPLIES, 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 8956 – AWARDED TO NEW WASTE CONCEPTS INC, FOR THREE (3) YEARS, WITH THE OPTION FOR TWO (2) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$724,500.00).

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>
8956	New Waste Concepts Inc	\$724,500.00

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 _____, 2026.

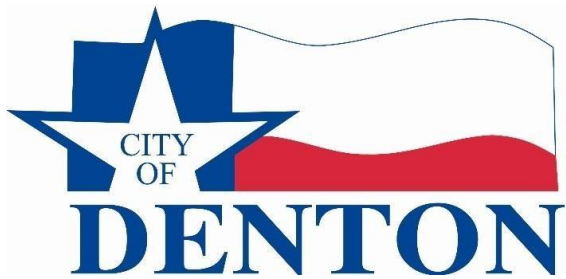
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush



Docusign City Council Transmittal Coversheet

FILE	8956
File Name	Spray on cover 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 NEW WASTE CONCEPTS INC
(Contract #8956)**

THIS CONTRACT is made and entered into this date _____, by and between **NEW WASTE CONCEPTS INC** a Ohio corporation, whose address 26624 Glenwood rd. Perrysburg, OH 43551, 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 File# 8956 - Spray on cover equipment, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton Standard Terms and Conditions (**Exhibit “B”**);
- (c) Certificate of Interested Parties Electronic Filing (**Exhibit “C”**);
- (d) EQUIPMENT SUPPLY AGREEMENT and Proposal (“Contractor’s Offer”) (**Exhibit “D”**);
- (e) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “E”**)

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as “Contract Documents.”

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this 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: Milton knight
4B83E62DECA0483
AUTHORIZED SIGNATURE

Printed Name: Milton Knight

Title: CEO

419-466-3283

PHONE NUMBER

mfknight@nwci.com

EMAIL ADDRESS

2025-1393063

TEXAS ETHICS COMMISSION
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

Signed by:
BY: Leah Bush
2A936B08B5D7485...

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

DEPARTMENT

Exhibit A

Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$724,500. Pricing shall be per Exhibit D attached.

2. The Quantities

The quantities indicated on Exhibit D 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 three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional two (2) one-year periods.

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

4. Price Escalation and De-escalation

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

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

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Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

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

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

5. Performance Liquidated Damages

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

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

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

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 of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

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

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA") ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. INVOICES:

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

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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 8956

electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have

electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

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

U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. DEFAULT:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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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 8956

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 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 8956

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.

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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.

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 C
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the Contract is awarded, in accordance with Government Code 2252.908.

The Contractor shall:

1. Log onto the State Ethics Commission Website at [:https://www.ethics.state.tx.us/filinginfo/1295/](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 D
EQUIPMENT SUPPLY AGREEMENT

THIS EQUIPMENT SUPPLY AGREEMENT is entered into by and between New Waste Concepts, Inc., of 26624 Glenwood Road, Perrysburg, Ohio, 43551, hereinafter called "**NWCI**", and the City of Denton, Texas, 215 E. McKinney Street, Denton, Texas, 76201, hereinafter called "**CITY OF DENTON**".

WITNESSETH, that **NWCI** hereby agrees to provide to **City of Denton** and **City of Denton** hereby agrees to secure from **NWCI**, for the terms and monthly payment hereinafter specified.

Unit Items Leased:	ConCover All-Purpose Sprayer: _____ (CAPS F Series or CAPS TM Series)
	Unit Serial number: _____
	Unit Size in gallons: _____ gal main / 65 gal flush Engine Type: Diesel
	Hitch Type: pintel (with or without an articulating arm)
	Other Descriptive items
	Pump Type: _____ (Progressive Cavity Pump 2L8 Continental or Gear Pump)
	Wheels: farm implement, high floatation, foam filled tires

1. TERM. The term for this Product Supply and Temporary Equipment Agreement shall commence on the date on which the Equipment is shipped to **CITY OF DENTON** at the above stated address and shall continue for a period of _____ months or until such time as the Product Supply Contract with the **City of Denton** expires in 20____. The Parties anticipate that the Machine shall be shipped within ____ days of this Agreement being executed. Termination shall occur based upon this Agreement unless sooner terminated as a result of **CITY OF DENTON**'s default as further defined in this Agreement. All Terminations shall occur at the earliest at midnight of any specific date, or at such later date as set forth on a "Equipment Supply Addendum" attached to this Agreement and signed by the Parties.

2. FIXED MONTHLY PAYMENTS. 'Fixed Monthly Payments' during the term of this Agreement are to be paid at the beginning of each 30 day 'use period' by the **CITY OF DENTON** for the equipment described above. The Fixed Monthly Payment shall be five thousand dollars [\$ _____] per month, commencing on 1st day of _____, and continuing each month thereafter for the full term as noted in paragraph 1 above. The first payment which shall be due within 30 days of the receipt of invoice and shall cover 2 months of the Fixed Monthly Payments, the first month and the last month, or an amount which totals ten thousand dollars [\$_____].

3. 'FIXED MONTHLY PAYMENTS'

(a) **CITY OF DENTON** shall pay **NWCI** the agreed Fixed Monthly Payment set forth above, in advance, of each month, or any other sums owed for product purchases by ACH transfer at **NWCI**'s bank in Perrysburg, Ohio. ACH instruction are set forth on an addendum A attached, or in such other manner or at such other place or places as **NWCI** may designate.

(b) If any Fixed Monthly Payment as required under Paragraph 2 above. or such other sums owing under this Agreement for Product shall not be paid when due and shall remain unpaid for ten (10) days beyond its due date, **CITY OF DENTON** shall pay **NWCI** a late charge equal to the **NWCI** of (i) five percent (5%) of the delinquent amount, or (ii) the greatest amount permitted by applicable law. The accrual and collection of such late charges shall be in addition to and not in lieu of any other rights and remedies **NWCI** may have under this Agreement.

(c) **CITY OF DENTON** shall bear the entire risk of loss, theft, damage, destruction or seizure of equipment by or from any cause whatsoever after **CITY OF DENTON** accepts delivery. **CITY OF DENTON** shall be obligated to pay the fixed monthly fee and other sums owed hereunder even if **CITY OF DENTON** is unable to use the equipment, or any of it, because of loss, theft, damage, destruction, seizure, or non-repair; provided that such loss, theft, damage, destruction, seizure, or non-repair occurs after **CITY OF DENTON** accepts delivery.

(e) All fixed monthly payments shall be paid by **CITY OF DENTON** irrespective of any setoff, counterclaim, recoupment, defense, or other right, which **CITY OF DENTON** may have against the **NWCI** or the manufacturer of the equipment or any other party.

(g) Product pricing under this Equipment Supply Agreement shall be set forth under Addendum A which is attached hereto but such exhibit A shall be adjusted annually based upon and agreement of the both the **CITY OF DENTON** and **NWCI**.

4. DELIVERY AND ACCEPTANCE. **NWCI** shall deliver the equipment to **CITY OF DENTON** at **CITY OF DENTON**'s address in Denton, Texas, or in such other location as the parties shall agree. Unless **CITY OF DENTON** gives written notice to **NWCI** within forty-eight (48) hours after receiving the equipment, specifying defects or other objections; it shall be conclusively presumed as between **NWCI** and **CITY OF DENTON** that **CITY OF DENTON** has fully inspected the equipment, that is in full compliance with the terms of this Agreement, that is in good condition and repair, and that **CITY OF DENTON** is satisfied with and has accepted the same.

5. TAXES AND FEES. **CITY OF DENTON** shall keep the equipment free and clear of all levies, liens, security interests, and encumbrances, and shall pay all license fees, registration fees, assessments, charges, and taxes, municipal, state, and federal, which now or hereafter may be imposed upon the ownership, sale, possession, or use of the equipment, excluding, however, all taxes on **NWCI**'s income. **CITY OF DENTON** also shall provide and pay for all permits and licenses, if any, that are necessary for the operation of the equipment or any parts thereof. **CITY OF DENTON** shall immediately reimburse **NWCI**, as additional charges, all fees and taxes paid by **NWCI** hereunder on behalf of **CITY OF DENTON**. City of Denton is exempt from federal excise taxes, state taxes, and city sales tax and will furnish a tax exemption certificate upon request.

6. MAINTENANCE. **CITY OF DENTON** shall, at its expense, maintain the equipment, and all additions, attachments and accessories with respect thereto, in good mechanical condition, repair and working order, and shall furnish all parts, mechanisms, devices and servicing required therefore so that the value and condition of the equipment will, at all times, be maintained, normal wear resulting from proper use of the equipment excepted. **CITY OF DENTON** shall, at its expense, cause the equipment to be maintained, serviced and repaired in accordance with the manufacturer's instructions and manuals, by competent and duly-qualified personnel, and in compliance with all federal, state and municipal laws regulations. Without the prior written consent of **NWCI**, **CITY OF DENTON** shall not make any normal and satisfactory operation or maintenance thereof, or creates a safety hazard, or results in the creation of mechanic's or material man's lien with respect thereto. All additions, attachments, accessories, and repairs at any time made or placed upon the equipment shall become part of the equipment and shall be the property of **NWCI**.

7. INSPECTION: NOTICE OF LOCATION AND LIENS. **NWCI** and its agents shall, at any time, have the right to enter upon the premises where the equipment may be located for the purpose of inspecting it and observing its use. **CITY OF DENTON** shall give **NWCI** immediate notice of any mechanic's or material man's liens, attachments or other judicial process affecting any item of equipment. In addition, **CITY OF DENTON** shall, upon demand by **NWCI**, advise **NWCI** of the exact location of the equipment and produce all records relating to the maintenance, repair and condition of the equipment for inspection by **NWCI**.

8. REPAIRS. In addition to its obligations in Paragraph 6 above, **CITY OF DENTON** shall, at its own expense, repair all property damage to the equipment during the term of the lease, regard-less of whether such property damage was caused by **CITY OF DENTON** , provided that such property damage occurred after the CITY OF DENTON accepts delivery. In the event that such repair costs are covered and paid for by **City of Denton**'s insurance, **CITY OF DENTON** shall pay all deductibles and other sums not covered and paid for thereunder.

9. INSURANCE.

(a) **CITY OF DENTON** shall, at its own expense, procure and maintain, in full force and effect, comprehensive physical damage insurance, insuring against all risks of loss, theft or damage from every cause whatsoever for not less than _____ dollars (\$_____) or the then fair market value of said equipment, whichever is higher. No loss or damage to the equipment, or any part thereof, shall impair any obligation of **CITY OF DENTON** under this lease which shall continue in full force and effect. If any equipment is lost, stolen, destroyed, or damaged in whole or in part by City of Denton employees, **CITY OF DENTON** at its option and at its expense, shall within thirty (30) days:

- (i) place that equipment in good repair, condition, and working order as required by Paragraphs 6 & 8 of this lease; or
- (ii) replace that equipment with like equipment that is in good repair, condition, and working order, and deliver to **NWCI** a bill of sale covering the replacement equipment.

(c) **CITY OF DENTON** shall deliver a certificate from the insurance agent or the insurance company listing **NWCI** as a certificate holder and shall make sure that the Certificate of Insurance lists **NWCI** as an additional insured. . In addition thereto, **CITY OF DENTON** shall, upon request, deliver proof of insurance. The proceeds of such co-loss payee insurance shall be paid to **NWCI** and **CITY OF DENTON** jointly and shall be applied;

- (i) toward the replacement, restoration, or repair of the equipment, and
- (ii) toward payment of the **CITY OF DENTON**'s obligations hereunder.

(d) if **CITY OF DENTON** fails to secure, maintain, and pay for such insurance coverage, or fails to furnish **NWCI** with satisfactory evidence of such insurance coverage, or fails to comply with any other terms and conditions in Paragraph 9 of this lease, such failure on **CITY OF DENTON**'s part shall constitute an event of immediate default.

10. USE OF EQUIPMENT. **CITY OF DENTON** shall cause the equipment to be used and operated in accordance with all applicable manufacturer's manuals and instructions, and in accordance with all government laws and regulations. All equipment issued hereunder shall be used and operated only by people to be employed by **CITY OF DENTON**. only. **CITY OF DENTON** shall require its operators to use and operate the equipment with reasonable care and to use every reasonable precaution to prevent loss or damage to any equipment because of fire, theft, negligence or incorrect use, or any other reason, and to prevent loss to life, limb or any other bodily injury by the operator.

11. RETURN OF EQUIPMENT.

(a) Upon the expiration or earlier termination of this Agreement with respect to any item of equipment, **CITY OF DENTON** shall immediately and without delay return the same to **NWCI** by delivering the equipment, at **CITY OF DENTON**'s expense, to **NWCI** at such address as he shall supply, or to such other location within the United States or Canada as is specified by **NWCI** in writing.

- 1. To the extent that any credits exist which **NWCI** owes the **CITY OF DENTON**, based upon fixed monthly payments made by the **CITY OF DENTON** to **NWCI**, then such credits may be used to reduce the cost and obligation of the **CITY OF DENTON** to pay for the cost of returning the equipment to **NWCI** as noted in the above paragraph.

(b) Prior to returning the equipment, **CITY OF DENTON** shall remove from such equipment any name or other identification of **CITY OF DENTON** thereon and such equipment shall be in good repair, working order, and the same condition as when received, ordinary wear resulting from proper use of the equipment excepted and free and clear of all liens, encumbrances, and rights of others whatsoever except liens on encumbrances resulting from claims against **NWCI**. **CITY OF DENTON** shall return the equipment to **NWCI** in the condition required by Paragraphs 6 and 8 of this Agreement.

(c) Upon delivery to **NWCI** at its offices in Perrysburg, Ohio, **NWCI** shall inspect the machine and immediately, within seven (7) business days, notify the **CITY OF DENTON** that there is damage to the machine which requires repair. **NWCI** shall provide either or both photos and a specific description of the damage as well as provide the **CITY OF DENTON** with an estimate of the cost of repair. The Parties shall within 5 days of **NWCI**'s notification to the **CITY OF DENTON** settle (i.e. agree in writing) on an amount for the repair, and the obligation of the **CITY OF DENTON** to pay for all or a portion of the repair.

12. DEFAULT. Time is of the essence as to **CITY OF DENTON**'s payment of all charges and Fixed Monthly Payments and its performance of all other payment obligations under this Agreement. If **CITY OF DENTON** defaults in any of its Fixed Monthly Payments or any payment for product ordered and delivered, and such default continues for more than twenty (20) days, or if **CITY OF DENTON** breaches or defaults in the performance of any other terms and conditions under this Agreement and such breach or default continues for more than twenty (20) days, (except as to default in **CITY OF DENTON**'s obligation to procure and maintain the insurance required by Paragraph 9, as to which default there shall be no grace period), or if a petition under any Chapter of the Bankruptcy Code, as amended, or for the appointment of a receiver, or any other proceedings for the relief of debtors, is filed by or against **CITY OF DENTON**, or if **CITY OF DENTON** shall make a general assignment for the benefit of creditors, suspend business operations, or commit any act amounting to a business failure, than, in any of such events (each of which shall constitute a breach of this Agreement), or if **CITY OF DENTON** shall use any other slurry material in the Equipment for daily cover or hydroseeding, **NWCI**, at its option may, by action or written notice to **CITY OF DENTON**, declare this Agreement in default, and accelerate any unpaid balance of the total charges due or which shall become due under this Agreement, and thereupon all Equipment then subject to this Agreement, and all the rights of the **CITY OF DENTON** therein shall be surrendered to **NWCI** and **NWCI** may take possession of the Equipment wherever it may be found, and for that purpose may enter upon any property subject to the **CITY OF DENTON**'s control and possession. **NWCI** shall hold equipment so repossessed free and clear of this Agreement and of any rights of the **CITY OF DENTON** hereunder. In addition thereto, **NWCI** shall be entitled to recover from **CITY OF DENTON**, as liquidated damages for breach of this Agreement and not as a penalty:

- (a) the unpaid balance of any fixed monthly payment which was due and payable or to become due up through the Termination date or date of default of this Agreement less the net proceeds from the **NWCI**'s subsequent reuse of the equipment, if another landfill is found that can use the equipment under the same arrangement as with **CITY OF DENTON**;
- (b) all costs incurred by **NWCI** in repossessing, storing, repairing, and moving the equipment;
- (c) interest after default at the rate of twelve percent (12%) per annum upon all damages resulting from **CITY OF DENTON**'s breach;
- (d) all court costs and attorneys' fees incurred by **NWCI** in the enforcement of its rights and remedies under this lease; and
- (e) any other actual or consequential damages arising from **CITY OF DENTON**'s default.

NWCI's repossession and subsequent sale or lease of the equipment shall not affect **NWCI**'s right to recover from **CITY OF DENTON** any and all other damages caused by **CITY OF DENTON**'s breach of this Agreement. **NWCI**'s rights and remedies hereunder shall be cumulative, not exclusive, and shall be in addition to all other rights and remedies available at law, in equity or in bankruptcy. Seller 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 Respondent. The Buyer will not incur a debt or obligation to pay Seller any amounts the Buyer does not have the current funds available to pay.

13. CONTRACTUAL EQUIPMENT SUPPLY AGREEMENT AND NOT A LEASE

(a) **City of Denton** hereby acknowledges and agrees that this is not a contractual lease of equipment, and not a financing lease or installment sales contract. **CITY OF DENTON** shall not acquire,

legally own or have any equitable interest in the operating equipment which is part of this Agreement. Further, neither **CITY OF DENTON** nor any of its employees shall be considered the agent of **NWCI**. Except as otherwise provided in this Agreement, **NWCI** shall have no right to control **CITY OF DENTON**'s use and operation of the equipment.

(b) **NWCI** may assign all Fixed Monthly Payment proceeds due or to become due hereunder and all of its rights, title and interest in and to the equipment which is part of this Supply Agreement, including all rights and remedies thereunder. Irrespective of the assignment of the Fixed Monthly Payments, **NWCI** shall remain responsible and liable for all of its obligations on providing product. **NWCI** hereby covenants and agrees to save any such assignee harmless from any losses, counterclaims or offsets resulting from **NWCI**'s actual failure to fulfill its obligations under this Agreement.

(c) Neither party shall assign their obligations or their interest in this Equipment Supply Agreement or the Equipment which is a subject of this Agreement without the other parties' prior written consent.

(d) **NWCI** shall at all times retain ownership and title of the Equipment. **CITY OF DENTON** shall, at all times, protect and defend, at its own cost and expense, **NWCI**'s ownership from and against all claims, liens, and legal processes of creditors of the **CITY OF DENTON** and will keep all the leased equipment free and clear from all such claims, liens, and processes.

14. APPLICABLE LAW/ACCEPTANCE OF LEASE. This Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Texas, and shall become effective upon acceptance and execution by **NWCI**. This lease is being executed in duplicate, each of the copies being deemed to be an original.

15. VENUE. Any action relating to the construction, interpretation, or enforcement of this Agreement shall be venued in the County courts in which the City of Denton, Texas, is located.

16. FAILURE TO RETURN. Subject to the laws of the State of Texas and without waiving any applicable immunity, if **CITY OF DENTON** fails to return the equipment within thirty (30) days after this Agreement expires or terminates, **CITY OF DENTON** agrees that such action may be construed as evidencing the intent to criminally deprive **NWCI** of its property and rightful possession, in violation of Ohio law, and that such conduct may be reported to the proper authorities for prosecution. Expiration of the Agreement shall mean the end of the lease term as provided in Paragraph 1, as well as termination for default under Paragraph 12.

17. OPTION TO PURCHASE. **CITY OF DENTON** shall have no option to purchase the equipment under this Agreement.

18. NOTICES. All notices, demands, or other communications required or permitted to be made or given under the terms of this Agreement shall be in writing, signed by or on behalf of the party making or giving the same, and shall be deemed fully made or given upon the deposit of the same in the United States mail, postpaid and addressed to the other party at his, her or its office address set forth in the preamble of this lease and on Addendum A, or at such other address as such other party shall have theretofore furnished to the mailing party by like notice.

19. CAPTIONS. The captions in this Supply Agreement are for convenience of reference only and shall not define or limit any the terms or provisions hereof.

20. INDEMNIFICATION. Subject to the laws of the State of Texas and without waiving any applicable immunity, **CITY OF DENTON** assumes all risk of liability arising from or pertaining to its possession, operation, use, maintenance, repair, and storage of the leased equipment. **CITY OF DENTON** also assumes and shall bear all risk of loss or damage to, or theft or destruction of, any equipment leased here-under.

21. WAIVER. Failure of NWCI to enforce any right here-under shall not be deemed a waiver of such right. No covenant, condition, or provision of this Supply Agreement can be waived except with NWCI's written consent. Any such waiver by NWCI in one instance shall not constitute a waiver of subsequent defaults.

22. MISCELLANEOUS.

(a) Subject to the laws of the State of Texas and without waiving any applicable immunity, **CITY OF DENTON** agrees to execute and deliver to **NWCI** any and all instruments and documents that may be reasonably necessary to protect **NWCI**'s interest in the equipment provided under this Supply Agreement, provided that the **CITY OF DENTON** has been provided such instrument or document with a chance to review and discuss with **NWCI** prior to execution. This provision will not obligate **CITY OF DENTON** to execute any agreement in contravention of Texas law or that require **CITY OF DENTON** to waive any applicable immunity.

IN WITNESS WHEREOF, NWCI has duly executed this Supply Agreement

this _____ day of _____ 202

In Presence Of:

NEW WASTE CONCEPTS., NWCI

WITNESS: _____[print]

Milton F Knight

PRESIDENT

IN WITNESS WHEREOF, the **CITY OF DENTON** has duly executed this lease

this _____ day of _____ 202_____

In Presence Of:

_____, CITY OF DENTON

WITNESS:_____ [print]

[PRINT NAME]

ADDENDUM A EQUIPMENT SUPPLY AGREEMENT

DATE: _____, 202__

NWCI: NEW WASTE CONCEPTS
26624 GLENWOOD ROAD
PERRYSBURG, OHIO 43551
PHONE: 419-872-2190
Ext 100 – Milton F Knight. (cell: 419-466-3283)
Email: mfknight@nwci.com
Ext 101 – Alan Wolfe. (cell: 419-466-3286)
Email: alan.wolfe@nwci.com

CITY OF DENTON:
CITY OF DENTON TEXAS LANDFILL
1527 S. MAYHILL ROAD
DENTON, TEXAS. 76208
ATTENTION: Randall Morris, Landfill Manager
PHONE: 940-349-8041
Email: randall.morris@cityofdenton.com

FIXED MONTHLY PAYMENT: \$_____

- Term: _____ months

Unit Size	Monthly Rental Cost	Purchase Price	Availability Notes
900 Gallon	\$5,000/month	\$75,000 + shipping	Available for rent or purchase
700 Gallon	\$5,000/month	\$115,000 + shipping	Available for rent or purchase
1200 Gallon	\$5,500/month	\$125,000 + shipping	Not currently available for rent; 2-year minimum commitment required to build for rent

ACH PAYMENT INSTRUCTIONS:

Name of Bank: Waterford Bank NA 3900 N McCord Road / Toledo, Ohio. 43617
Bank Routing Number: 041215854
Swift Code #: WATRUS31
Beneficiary Name: New Waste Concepts Inc
Beneficiary Account number: 3160348. (we cannot write checks on this account – only for inbound reception)

_____ initials of NWCI

initials of City of Denton_____

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.

NEW WASTE CONCEPTS INC

2 ☒ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☐

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☐

No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐

Yes

☐

No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☐ **I have no Conflict of Interest to disclose.**

5

DocuSigned by:

Milton Knight

12/4/2025

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: 3D7CD639-3307-4500-948B-82B46BCEFCF6
 Subject: Please DocuSign: City Council Contract 8956 -Spray on cover equipment
 Source Envelope:
 Document Pages: 37
 Certificate Pages: 6
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Sent

Envelope Originator:
 Kayla Clark
 901B Texas Street
 Denton, TX 76209
 kayla.clark@cityofdenton.com
 IP Address: 198.49.140.104

Record Tracking

Status: Original
 11/24/2025 1:36:01 PM

Holder: Kayla Clark
 kayla.clark@cityofdenton.com

Location: DocuSign

Signer Events

Kayla Clark
 kayla.clark@cityofdenton.com
 Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Signature

Completed

Using IP Address: 198.49.140.104

Timestamp

Sent: 11/24/2025 1:40:44 PM
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 Signed: 11/24/2025 1:41:11 PM

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)



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Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Leah Bush
 Leah.bush@cityofdenton.com
 Security Level: Email, Account Authentication
 (None)



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 Signed: 11/24/2025 2:50:42 PM

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

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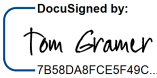
Milton Knight
 mfknight@nwci.com
 CEO
 Security Level: Email, Account Authentication
 (None)



Sent: 11/24/2025 2:50:47 PM
 Resent: 11/25/2025 7:46:20 AM
 Resent: 12/1/2025 6:34:48 AM
 Resent: 12/4/2025 7:12:37 AM
 Viewed: 12/4/2025 8:23:00 AM
 Signed: 12/4/2025 8:27:04 AM

Signature Adoption: Pre-selected Style
 Using IP Address: 24.52.65.211

Electronic Record and Signature Disclosure:
 Accepted: 12/4/2025 8:23:00 AM
 ID: e355f47c-cb74-41d6-920f-220e7e6900b7

Signer Events	Signature	Timestamp
Tom Gramer Tom.Gramer@cityofdenton.com Director Security Level: Email, Account Authentication (None)	DocuSigned by:  7B58DA8FCE5F49C... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/4/2025 8:27:12 AM Viewed: 12/4/2025 8:27:59 AM Signed: 12/4/2025 8:28:15 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: 12/4/2025 8:28:18 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

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) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 11/24/2025 1:41:14 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure:	COPIED	Sent: 11/24/2025 1:47:07 PM

Carbon Copy Events	Status	Timestamp
Not Offered via DocuSign		
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/4/2025 8:28:18 AM Viewed: 12/4/2025 11:37:36 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
December 15, 2025

After determining that a quorum was present of the Public Utilities Board of the City of Denton, convened in a Regular Meeting on Monday, December 15, 2025, at 9:03 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

Also present: General Manager Stephen Gay and First Assistant City Attorney Marcella Lunn

Absent: Chair Billy Cheek

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

There were no presentations from the public.

2. CONSENT AGENDA

The Consent Agenda consisted of Items 2 A-I.

Board Member Newquist moved to recommend adoption of agenda items 2 A-I. Motion seconded by Board Member Parker; motion carried.

YES (6): Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

NO (0):

- A. PUB25-220** Consider recommending adoption of an ordinance of the City of Denton amending Chapter 26 of the Code of Ordinances to update Sections 26-5, 26-8(d) and 26-9(d) amending deposit refund and payment agreement provisions; and providing a severability clause; providing a savings clause; providing for codification; and an effective date.
- B. PUB25-221** Consider recommending adoption of an ordinance of the City of Denton, Texas; repealing sec. 26-128 "Adjustments in Bills for Losses from Water Leaks" of the code of the City of Denton, Texas; codifying a new Sec. 26-128 to add and clarify water and sewer billing leak adjustment program requirements and administrative procedures; providing for a repealer; providing a severability clause; and declaring an effective date.
- C. PUB25-226** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Lockwood, Andrews & Newnam, Inc., for engineering services for the Lift Station Rehabilitation Project for the Water Utilities Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8213-011 - Professional Services Agreement for engineering

services awarded to Lockwood, Andrews & Newnam, Inc., in the not-to-exceed amount of \$735,520.00).

- D. PUB25-227** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with WM. M. Coleman & Associates, Inc. dba Coleman & Assoc. Land Surveying, for construction inspection services of the construction of Landfill Cell 6 for the Solid Waste and Recycling Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8525-012 - Professional Services Agreement for construction inspection services awarded to WM.M. Coleman & Associates, Inc. dba Coleman & Assoc. Land Surveying, in the not-to-exceed amount of \$156,265.00).
- E. PUB25-229** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with T.H. Glennon Co., Inc., for the purchase of mulch colorant for the Beneficial Reuse Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8822 - awarded to T.H. Glennon Co., Inc., for three (3) years, with the option for two (2) additional one (1) year extensions, in the five (5) year not-to-exceed amount of \$150,000.00).
- F. PUB25-230** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Tanner Industries, Inc., for the purchase of anhydrous ammonia for the Water Production Department; providing for the expenditure of funds therefor; and providing an effective date (IFB 8823-1 - awarded to Tanner Industries, Inc., in a three (3) year, with the option for two (2) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$264,000.00).
- G. PUB25-232** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Gage & Cade Construction, LLC, for the Home Chemicals and Recycling Center Improvements for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8845 - awarded to Gage & Cade Construction, LLC, in the not-to-exceed amount of \$614,738.00).
- H. PUB25-233** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Techline, Inc., through the Lower Colorado River Authority Contract No. 6941, for the acquisition of electric maintenance, repair, and construction inventory for Denton Municipal Electric to be stocked in the Warehouse and at Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (File 8947- awarded to Techline, Inc., in the five (5) year not-to-exceed amount of \$6,000,000.00).
- I. PUB25-234** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, ratifying the expenditure of funds by the City Manager, for the emergency purchase of switchgears for Denton Municipal Electric; and

providing an effective date (File 8954 - awarded to Texas Electric Cooperatives, Inc., in the not-to-exceed amount of \$260,200.00).

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB25-218 Consider approval of the October 27, 2025 minutes.

Board Member Plock moved to recommend adoption of agenda items 3 A. Motion seconded by Board Member Riback; motion carried.

YES (6): Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

NO (0):

B. PUB25-224 Consider approval of the November 17, 2025 minutes.

Board Member Rayner moved to recommend adoption of agenda items 3 B. Motion seconded by Board Member Riback; motion carried.

YES (6): Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

NO (0):

Individual Consideration Item 3 C was postponed for recommendation until after the closed session.

D. PUB25-228 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Integrated Power Co., for transmission line construction and maintenance for Capital Improvement Plan projects for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (CSP 8776 - awarded to Integrated Power Co., in the not-to-exceed amount of \$67,990,000.00).

Mark Zimmerer gave a presentation and answered questions from the Board members.

Board Member Rayner moved to recommend adoption of agenda items 3 D. Motion seconded by Board Member Parker; motion carried.

YES (6): Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

NO (0):

E. PUB25-231 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Stuart C. Irby Company, LLC, for the purchase of high voltage circuit breakers for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8836 - awarded to Stuart C. Irby Company, 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 \$22,257,824.00).

Mark Zimmerer gave a presentation and answered questions from the Board members.

Board Member Parker moved to recommend adoption of agenda items 3 E. Motion seconded by Board Member Riback; motion carried.

YES (6): Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback, Susan Parker, Aaron Newquist

NO (0):

F. PUB25-225 Management Reports

1. Purchasing Retroactive Memo
2. UECP Annual Refunding
3. PUB25-205 Retroactive Council Item
4. PUB CWSRF Management Report
5. Future Agenda Items
6. New Business Action Items

WORK SESSION

A. PUB25-235 Receive a report, hold a discussion, and provide suggestions or recommendations regarding updates to the City of Denton Design Criteria Manual.

Mike Linder gave a presentation and answered questions from the Board members. Aaron Bennion and Md Rakibul Alam also assisted in answering questions.

The Public Utilities Board convened into closed session at 9:38 A.M.

CLOSED SESSION

A. PUB25-223 Deliberations Regarding Certain Public Power Utilities: Competitive Matters – Under Texas Government Code Section 551.086.

Receive information from staff regarding the energy cost adjustment and transmission cost recovery factor schedule of rates for large load commercial customers that include public power utility competitive data; discuss, deliberate, and provide direction to staff regarding same.

The Public Utilities Board reconvened at 9:58 A.M from the closed session and no official action was taken.

C. PUB25-222 Consider recommending adoption of an ordinance of the City of Denton, Texas establishing the schedule of rates for electric service; amending the Transmission Cost Recovery Factor Schedules to add rate schedule TCRF LL for a Transmission Cost Recovery Factor rate schedule for large load customers whose planned or actual single point of delivery

meets or exceeds 20 megawatts; providing for a repealer; providing for a severability clause; and providing effective dates for this ordinance and the schedule of rates.

Melissa Cuevas gave a presentation to the Board members. No action was needed on this item.

4. CONCLUDING ITEMS

With no further business, the meeting was adjourned at 10:01 AM.

BILLY CHEEK
CHAIR
CITY OF DENTON, TEXAS

CASSIE BLACKBURN
ADMIN MANAGER
CITY OF DENTON, TEXAS

Minutes approved on: 1/12/26

Future Public Utilities Board Agenda Items

Note: This is a working draft of pending PUB items and is subject to change without notice.

Meeting Date	Item	Dept
January 12, 2026	Receive nominations and hold elections for Chair, Vice Chair, and Secretary.	
January 26, 2026		
February 9, 2026		
February 23, 2026		
March 9, 2026		
March 23, 2026		
April 13, 2026		
April 27, 2026		
May 4, 2026		
May 18, 2026		
June 8, 2026		
June 22, 2026		
July 13, 2026		
July 27, 2026		
August 10, 2026		

August 24, 2026		
September 14, 2026		
September 28, 2026		
October 12, 2026	2027 PUB Schedule	DME
October 26, 2026		
November 16, 2026		
December 14, 2026		
Codes: Work Session WS, Consent Agenda CA, Individual Consideration IC		

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPT	STATUS
1.					
2.					