City of Denton

Meeting Agenda

Public Utilities Board

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

Monday, June 9, 2025 | **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, June 9, 2025, 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. PUB25-079 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 Primoris T&D Services, LLC., amending the contract approved by City Council on September 28, 2021, in the not-to-exceed amount of $15,000,000.00; said first amendment to continue to supply overhead electrical construction services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 7725 - providing for an additional first amendment expenditure amount not-to-exceed $3,750,000.00, with the total contract amount not-to-exceed $18,750,000.00).

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

B. PUB25-080 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 Protective Relay Panels for multiple substations for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8712 - awarded to Schweitzer Engineering Laboratories, Inc., in the not-to-exceed amount of $551,600.00).

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

C. PUB25-081 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive statements of qualifications under RFQ 8723 for the General Management Survey of Utilities for the Water Utilities Department; and providing an effective date (RFQ 8723).

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

D. PUB25-082 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 FCX Performance, Inc. dba Instrumentation Services, for predictive maintenance testing services for the treatment plants and lift stations for the Water Production and Water Reclamation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8754 - awarded to FCX Performance, Inc. dba Instrumentation Services, 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 $200,000.00).

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

E. PUB25-083 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a contract between the City of Denton and Schneider Electric Smart Grid Solutions, LLC,

formerly Telvent USA, LLC, amending the contract approved by City Council on May 7, 2013, in the not-to-exceed amount of $491,813.75; said sixth amendment to continue to provide vendor support of the Denton Municipal Electric (DME) ArcFM solution and associated software modules, along with new hardware and software upgrades; providing for the expenditure of funds therefor; and providing an effective date (RFP 8764 - providing for a five (5) year term and an additional sixth amendment expenditure amount not-to-exceed $357,500.00).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Original Ordinance, Contract, Ordinances, Amendments, and Name C
Exhibit 3 - Ordinance and Amendment 6

F. PUB25-084 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 Texas Meter and Device Company, LLC, for water meter reading services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8772 - awarded to Texas Meter and Device 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 $3,511,770.00).

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

G. PUB25-086 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 McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., for the construction of Westgate Drive Phase 1 Improvement Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8777 - awarded to McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., in the not-to-exceed amount of $3,914,087.57).

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

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB25-089 Consider approval of the May 19, 2025, minutes.

Attachments: 5.19.25 PUB Minutes

B. PUB25-085 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 Holt Texas, LTD., through the Buy Board Cooperative Purchasing Network Contract Nos. 685-22 and 740-24, for authorized repair services, purchases, and rentals of Caterpillar construction equipment for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8805 - awarded to

Holt Texas, LTD., 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 $14,983,500.00).

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Cooperative Pricing
Exhibit 3 - Presentation
Exhibit 4 - Ordinance and Contract

C. PUB25-087 Management Reports

1. Future Agenda Items
2. New Business Action Items

Attachments: 1. Future Agenda Items
2. New Business Action Items

D. PUB25-054 Consider recommending adoption of an ordinance of the City of Denton, Texas establishing the schedule of rates for electric service; amending the Energy Cost Adjustment and Transmission Cost Recovery Factor Schedules to add rate schedule ECA LL for an Energy Cost Adjustment 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 schedules of rates.

Attachments: Exhibit 1: Agenda Information Sheet
Exhibit 2: Rate Ordinance Redline
Exhibit 3: Rate Ordinance
Exhibit 4: Presentation

4. 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.

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

CLOSED MEETING

A. PUB25-078 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

Receive information from staff regarding the energy cost adjustment schedule of rates for large load commercial customers that include public power utility competitive data; discuss, deliberate, and provide direction to staff regarding same.

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

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 June 5, 2025, in advance of the 72-hour posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

_____

OFFICE OF THE CITY SECRETARY

NOTE: THE CITY OF DENTON'S DESIGNATED PUBLIC MEETING FACILITIES ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE ACCOMMODATION, SUCH AS SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED, IF REQUESTED AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY SECRETARY'S OFFICE AT 940-349-8309 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT REASONABLE ACCOMMODATION CAN BE ARRANGED.

File #: PUB25-079, **Version:** 1

AGENDA CAPTION

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 Primoris T&D Services, LLC., amending the contract approved by City Council on September 28, 2021, in the not-to-exceed amount of $15,000,000.00; said first amendment to continue to supply overhead electrical construction services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 7725 - providing for an additional first amendment expenditure amount not-to-exceed $3,750,000.00, with the total contract amount not-to-exceed $18,750,000.00).

City of Denton

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

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 Primoris T&D Services, LLC., amending the contract approved by City Council on September 28, 2021, in the not-to-exceed amount of $15,000,000.00; said first amendment to continue to supply overhead electrical construction services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 7725 – providing for an additional first amendment expenditure amount not-to-exceed $3,750,000.00, with the total contract amount not-to-exceed $18,750,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Denton Municipal Electric (DME) operates an electric distribution system in the greater Denton area, which is comprised of a system voltage of 13,200 volts. The City has a complement of electric system operating personnel to perform normal operating, maintenance, and construction work on the system. However, DME needs outside contractor services to supplement that workforce, with qualified personnel, on a project need basis for performing overhead construction projects, maintenance job orders, and emergency system restoration.

One of the projects has been a pole inspection project under contract 6993, which was council approved in 2019. This project is 100% complete and has inspected over 14,000 existing poles. Pole inspections have identified 1,794 poles needing to be replaced throughout DME's infrastructure. To date, DME maintenance crews and Primoris have changed out 1,406 of the poles that needed replacing. The remaining 388 poles to be replaced will deplete the current contract (RFP# 7725 Overhead Construction) before the expiration date of September 28, 2026. A future RFP will be issued to replace the current contract before the depletion of the amended funds.

Project Description	Estimated Expenditure
Original Contract	$15,000,000
Amendment 1 - Maintenance Parts	3,750,000
Total	**$18,750,000**

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 28, 2021, City Council approved a contract with Primoris T&D Services, LLC., in the not-to-exceed amount of $15,000,000 (Ordinance 21-2105).

RECOMMENDATION

Award Amendment No. 1 with Primoris T&D Services, LLC., to continue to supply overhead electrical construction services for Denton Municipal Electric, in a not-to-exceed amount of $3,750,000, for a total amended contract amount of $18,750,000.

PRINCIPAL PLACE OF BUSINESS

Primoris T&D Services, LLC.
Fort Worth, TX

ESTIMATED SCHEDULE OF PROJECT

This contract will expire on September 28, 2026.

FISCAL INFORMATION

These services will be funded from DME CIP project account 605601500. Requisitions will be entered on an as-needed basis. The total amended amount of this contract is $18,750,000.

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: Cody Tenorio, 940-349-7532.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 21-2105

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PRIMORIS T&D SERVICES, LLC., TO PERFORM NORMAL AND EMERGENCY OPERATING, MAINTENANCE, AND CONSTRUCTION WORK ON THE OVERHEAD ELECTRIC DISTRIBUTION SYSTEM FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 7725 – AWARDED TO PRIMORIS T&D SERVICES, LLC., IN THE FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $15,000,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals to perform normal and emergency operating, maintenance, and construction work on the overhead electric distribution system for the City of Denton; 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, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
7725	Primoris T&D Services, LLC.	$15,000,000.00

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations, Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the

proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal and related documents herein approved and accepted.

SECTION 4. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

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

The motion to approve this ordinance was made by Brian Beck and seconded by Jesse Davis. This ordinance was passed and approved by the following vote [7 - 0]:

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

PASSED AND APPROVED this the 28th day of September, 2021.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
CATHERINE CLIFTON, INTERIM CITY ATTORNEY

BY: _____ Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2021.09.07 13:14:25 -05'00'

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Docusign City Council Transmittal Coversheet

RFP	7725
File Name	Overhead Construction Services
Purchasing Contact	Christa Christian
City Council Target Date	SEPTEMBER 28, 2021
Piggy Back Option	Not Applicable
Contract Expiration	SEPTEMBER 28, 2026
Ordinance	21-2105

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND PRIMORIS T&D SERVICES, LLC.
(RFP 7725)

THIS CONTRACT is made and entered into this date 09/28/2021, by and between **Primoris T&D Services, LLC.,** a Delaware Limited Liability Company, whose address is 115 W. 7th Street, Suite 1410, Fort Worth, Texas 76102 , hereinafter referred to as "Contractor," and the CITY OF DENTON, TEXAS, a Texas Municipal Corporation and Home-Rule City, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and the subsequent execution of this Contract by the Denton City Manager, or his duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide construction services in accordance with the City's RFP # 7725 Supply of Overhead Electric Line Construction and Maintenance, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes as "Exhibit B". The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton Request for Proposal # 7725 **(Exhibit "B" on file at Office of Purchasing Agent)**
(c) General Provisions-Standard Terms and Conditions **(Exhibit "C");**
(d) Payment and Performance Bond Requirements **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Certificate of Interested Parties Electronic Filing **(Exhibit "F");**
(g) Contractor's Proposal **(Exhibit "G")**;
(h) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "H")**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to this written Contract, and then to the Contract documents in the sequential 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 2270 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

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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 agreement, 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 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.

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.

SIGNATURE PAGE TO FOLLOW

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

CONTRACTOR: PRIMORIS T&D SERVICES, LLC

BY: DocuSigned by: Brian Hay B1A7795EDC034BE...
AUTHORIZED SIGNATURE

Date: 8/31/2021

Printed Name: Brian Hay

Title: VP - Operations Support

817-471-6386
PHONE NUMBER

bhay@prim.com
EMAIL ADDRESS

2021-797441
TEXAS ETHICS COMMISSION CERTIFICATE NUMBER

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

DocuSigned by: Antonio Puente E3760944C2BF4B5...
SIGNATURE

Antonio Puente
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: DocuSigned by: Sara Hensley 5236DB296270423...

SARA HENSLEY, INTERIM CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:

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

CATHERINE CLIFTON, INTERIM CITY ATTORNEY

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EXHIBIT A
SPECIAL TERMS AND CONDITIONS

Total Contract Amount

The Contract total for services shall not exceed **$15,000,000.00**. Pricing shall be per Exhibit G attached.

Contract Term

The contract term will be five (5) years, effective from date of award or notice to proceed 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.

The Quantities

The quantities indicated on Exhibit G 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.

Liquidated Damages:

The time of the completion of construction of the project is of the essence of the contract. Should the Contractor neglect, refuse or fail to complete the construction within the time agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the City shall have the right to deduct from and retain out of such money which may be then due or which may become due and payable to the Contractor the sum of FIVE HUNDRED DOLLARS ($500.00) per day for each and every day, including weekends, that such construction is delayed on its completion beyond the specified time, as liquidated damages and not as a penalty; if the amount due and to become due from the City to the Contractor is insufficient to pay in full any such liquidated damages, the Contractor shall pay to the City the amount necessary to effect such payment in full: Provided, however, that the City shall promptly notify the Contractor in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Retainage:

The City is required to withhold five percent (5%) retainage for public works contracts in which the total contract price estimate at the time of execution is more than $250,000 for a single project

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EXHIBIT C

CITY OF DENTON STANDARD PURCHASE TERMS AND CONDITIONS FOR FACILITY CONSTRUCTION SERVICES

ARTICLE 1 GENERAL PROVISIONS

GENERAL DEFINITIONS

1.1 The following definitions apply throughout these General Conditions and to the other Contract Documents:

a) THE CONTRACT DOCUMENTS

The Contract Documents consist of the formal Building Construction Services Agreement between the Owner and the Prime Contractor, these General Conditions and other supplementary conditions included by special provisions or addenda, drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Contract, and Amendments issued after execution of the Contract. For purposes of these General Conditions, an Amendment is:

(1) a written Supplemental Agreement to the Contract signed by authorized representatives of both parties;

(2) a Change Order, including Change Orders signed only by the Owner as described in Subparagraph 7.1(b) and Subparagraph 7.1(e); or

(3) a written order for a minor change in the Work issued by the Architect/Engineer as described in Paragraph 7.3.

The Contract Documents also include bid documents such as the Owner's Instructions to Bidders, sample forms, the Prime Contractor's Bid Proposal and portions of addenda relating to any of these documents, and any other documents, exhibits or attachments specifically enumerated in the Building Construction Services Agreement, but specifically exclude geotechnical and subsurface reports that the Owner may have provided to the Prime Contractor.

b) THE CONTRACT

The Contract Documents, as defined in Paragraph 1.1, are expressly incorporated into and made a part of the formal Building Construction Services Agreement between the Owner and the Prime Contractor by reference in this Paragraph and Paragraph 1.1 (which documents are sometimes also referred to collectively in these General Conditions as the "Contract"). The Contract Documents represent the entire and integrated agreement between the Owner and the Prime Contractor and supersede all prior negotiations,

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representations or agreements, either written or oral. The terms and conditions of the Contract Documents may be changed only by an Amendment. The Contract Documents shall not be construed to create a contractual relationship of any kind:

(1) between the Architect/Engineer and Prime Contractor;

(2) between the Owner and a Subcontractor or -subcontractor; or

(3) between any persons or entities other than the Owner and Prime Contractor.

The Architect/Engineer shall, however, be entitled to performance and enforcement of obligations under the Contract Documents intended to facilitate performance of the Architect/Engineer's duties.

c) THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by the Prime Contractor, or any Subcontractors, Sub-subcontractors, material suppliers, or any other entity for whom the Prime Contractor is responsible, to fulfill the Prime Contractor's obligations. The Work may constitute the whole or a part of the Project.

d) THE PROJECT

The Project is the total construction more particularly described in the Building Construction Services Agreement, of which the Work performed under the Contract Documents may be the whole or a part of the Project and which may include construction by the Owner or by separate contractors. All references in these General Conditions to or concerning the Work or the site of the Work will use the term "Project," notwithstanding that the Work may only be a part of the Project.

e) THE DRAWINGS

The Drawings (also known as the "Plans") are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

f) THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, performance of related services, and other technical requirements.

g) THE PROJECT MANUAL

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The Project Manual is the volume or volumes which contain the bidding requirements, sample forms, General Conditions for Building Construction, special provisions, and Specifications. The Project Manual may be modified by written addendums issued by the Owner during bidding, in which case the written addendums become a part of the Project Manual upon their issuance, unless otherwise indicated by the Owner in writing.

h) ALTERNATE

An Alternate is a variation in the Work on which the Owner requires a price separate from the City Building General Conditions Base Bid. If an Alternate is accepted by the Owner, the variation will become a part of the Contract through the execution of a change order or amendment to the Contract and the Base Bid will be adjusted to include the amount quoted. If an alternate is accepted by the Owner, and later deleted prior to any Work under the alternate being performed or materials delivered to the Project site, the Owner will be entitled to a credit in the full value of the alternate as priced in the Prime Contractor's Bid.

i) BASE BID

The Base Bid is the price quoted for the Work before Alternates are considered.

j) HAZARDOUS SUBSTANCE

The term Hazardous Substance is defined to include the following:

(1) any asbestos or any material which contains any hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable;

(2) any polychlorinated biphenyls ("PCBs"), or PCB-containing materials, or fluids;

(3) radon;

(4) any other hazardous, radioactive, toxic or noxious substance, material, pollutant, or solid, liquid or gaseous waste;

(5) any pollutant or contaminant (including but not limited to petroleum, petroleum hydrocarbons, petroleum products, crude oil or any fractions thereof, any oil or gas exploration or production waste, any natural gas, synthetic gas or any mixture thereof, lead, or other toxic metals) which in its condition, concentration or area of release could have a significant effect on human health, the environment, or natural resources;

(6) any substance that, whether by its nature or its use, is subject to regulation or requires environmental investigation, monitoring, or remediation under any federal, state, or local environmental laws, rules, or regulations;

(7) any underground storage tanks, as defined in 42 U.S.C. Section 6991(1)(A)(I) (including those defined by Section 9001(1) of the 1984 Hazardous and Solid Waste

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Amendments to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Texas Water Code Annotated Section 26.344; and Title 30 of the Texas Administrative Code Sections 334.3 and 334.4), whether empty, filled or partially filled with any substance; and

(8) any other hazardous material, hazardous waste, hazardous substance, solid waste, and toxic substance as those or similar terms are defined under any federal, state, or local environmental laws, rules, or regulations.

k) OTHER DEFINITIONS

As used in the Contract Documents, the following additional terms have the following meanings:

(1) "provide" means to furnish, install, fabricate, deliver and erect, including all services, materials, appurtenances and other expenses to complete in place, ready for operation or use;

(2) "shall" means the action of the party to which reference is being made is mandatory;

(3) "as required" means as prescribed in the Contract Documents; and

(4) "as necessary" means all action essential or needed to complete the work in accordance with the Contract Documents and applicable laws, ordinances, construction codes, and regulations.

1.2 EXECUTION, CORRELATION AND INTENT

(a) The Building Construction Services Agreement shall be signed by duly authorized representatives of the Owner and Prime Contractor as provided in the Agreement.

(b) Execution of the Building Construction Services Agreement by the Prime Contractor is a representation that the Prime Contractor has visited the site, has become familiar with local conditions, including but not limited to subsurface conditions, under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

(c) The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Prime Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Prime Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

(d) Organization of the Specifications into divisions, sections, and articles, and arrangement of Drawings shall not control the Prime Contractor in dividing the Work among Subcontractor(s) or in establishing the extent of Work to be performed by any trade.

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(e) Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

(f) The Drawings and Specifications are intended to agree with one another, and Work called for by Drawings and not mentioned in Specifications, or vice versa, shall be furnished as if set forth by both. Specifications shall govern materials, methods and quality of work. In the event of a conflict on the Drawings between scale and dimension, figured dimensions shall govern over scale dimensions and large scale drawings shall govern over small scale drawings. Conflict between two or more dimensions applying to a common point shall be referred to the Architect/Engineer/Engineer for final adjustment. If discrepancies or conflicts occur within or between the Drawings and Specifications regarding the Work, or within or between other Contract Documents, the Prime Contractor shall not perform such Work without having obtained a clarification from the Architect/Engineer and resolution by the Owner. The Owner's decision as to the appropriate resolution of a conflict or discrepancy shall be final. Should the Drawings or the Specifications disagree within themselves or with each other; the Base Bid will be based on the most expensive combination of quality and quantity of Work indicated.

(g) Deviations from Contract Documents shall be made only after written approval is obtained from Architect/Engineer and Owner, as provided in Article 7.

(h) The intention of the Contract Documents is to include all materials, labor, tools, equipment, utilities, appliances, accessories, services, transportation, and supervision required to completely perform the fabrication, erection and execution of the Work in its final position.

(i) The most recently issued Drawing or Specification takes precedence over previous issues of the same Drawing or Specification. In the event of a conflict, the order of precedence of interpretation of the Contract Documents is as follows:

(1) Amendments (see Paragraph 7.2 for order of precedence between Amendments);

(2) the Building Construction Services Agreement;

(3) addenda, with those addenda of later date having precedence over those of an earlier date;

(4) the Supplementary General Conditions and Special Provisions, if any;

(5) the General Conditions for Building Construction;

(6) 0the Specifications and Drawings.

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1.3OWNERSHIP AND USE OF ARCHITECT/ENGINEER'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

All Drawings, Specifications, and copies thereof furnished by the Architect/Engineer are and shall remain the property of the Owner and are, with the exception of the Contract set for each party, to be returned to the Owner upon request at the completion of the Work.

1.4 CAPITALIZATION

Terms capitalized in these General Conditions include those which are:

(1) specifically defined in these General Conditions (except the terms defined in Subparagraph 1.1(j), which terms are of common grammatical usage and are not normally capitalized);

(2) the titles of numbered articles and identified references to Paragraphs, Subparagraphs, and Clauses;

(3) the titles of other documents published or used by the Owner as manuals or official policy statements; or

(4) proper nouns or other words required under standard grammatical rules to be capitalized.

ARTICLE 2 - THE OWNER

2.1 DEFINITION OF OWNER

The Owner is the City of Denton, a Texas municipal corporation, and is identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representatives.

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

(a) The Owner shall furnish the most recent survey describing the physical characteristics, legal limits, utility locations, and a permanent benchmark for the site of the Project. The Owner shall also furnish any environmental site assessments that may have been given to the Owner or conducted for the property upon which the Project is to be constructed. THIS INFORMATION IS FURNISHED TO THE PRIME CONTRACTOR ONLY IN ORDER TO MAKE DISCLOSURE OF THIS MATERIAL AND FOR NO OTHER PURPOSE. BY FURNISHING THIS MATERIAL, THE OWNER DOES NOT REPRESENT, WARRANT, OR GUARANTEE ITS ACCURACY EITHER IN WHOLE, IN PART, IMPLICITLY OR EXPLICITLY, OR IN ANY OTHER WAY, AND THE OWNER SHALL HAVE NO LIABILITY FOR THIS MATERIAL.

(b) Except for permits and fees which are provided for in Subparagraph 3.7(a), the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for

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construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

(c) Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work. It is incumbent upon the Prime Contractor to identify, establish, and maintain a current schedule of latest dates for submittal and approval, as required in Paragraph 3.10, including when such information or services must be delivered. If Owner delivers the information or services to the Prime Contractor as scheduled and Prime Contractor is not prepared to accept or act on such information or services, then Prime Contractor shall reimburse Owner for all extra costs incurred of holding, storage, or retention, including redeliveries by the Owner to comply with the current schedule.

(d) Unless otherwise provided in the Contract Documents, the Prime Contractor will be furnished electronic copies of the Drawings and Specifications for bid purposes and one hard copy approved by Building Inspections upon execution of the Contract. Prime Contractor may obtain additional copies by paying the cost of additional printing or reproduction.

(e) The obligations described above are in addition to other duties and responsibilities of the Owner enumerated in the Contract Documents and especially those in respect to Article 6 (Construction by Owner or by Separate Contractors), Article 9 (Payments and Completion), and Article 11 (Insurance and Bonds).

(f) The Owner shall forward all instructions to the Prime Contractor through the Architect/Engineer, except for the Owner's Notice to Proceed and the Owner's decision to carry out Work as described in Paragraph 2.4.

(g) The Owner's employees, agents, and consultants may be present at the Project site during performance of the Work to assist the Architect/Engineer in the performance of the Architect/Engineer's duties and to verify the Prime Contractor's record of the number of workmen employed on the Work, their occupational classification, the time each is engaged in the Work, the equipment used in the performance of the Work, and for purpose of verification of Prime Contractor's Applications for Payment.

2.3 OWNER'S RIGHT TO STOP THE WORK

If the Prime Contractor fails to correct any portion of the Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or refuses or fails to carry out all or any part of the Work in accordance with the Contract Documents, the Owner, by written order, may order the Prime Contractor to stop the Work, or any portion of the Work, until the cause for the order has been eliminated. The right of the Owner however, to stop the Work shall not create or imply a duty on the part of the Owner to exercise this right for the benefit of the Prime Contractor or any other person or entity. The rights of the Owner under this Paragraph 2.3 shall be in addition to, and not in restriction of, the Owner's rights under Paragraph 12.2.

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Prime Contractor fails or refuses to carry out the Work or perform any of the terms, covenants, or obligations of the Contract Documents, and fails or refuses to correct any failure

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or refusal with diligence and promptness within fourteen (14) days after receipt of written notice from the Owner, the Owner may correct the Prime Contractor's failure or refusal or cause such failure or refusal to be corrected, without affecting, superseding, or waiving any other contractual, legal, or equitable remedies the Owner has, including but not limited to the Owner's termination rights under Article 13. In that case, an appropriate Change Order will be issued deducting the Owner's cost of correction, including Architect/Engineer's compensation for additional services and expenses made necessary by the failure or refusal of the Prime Contractor from payments then or thereafter due to the Prime Contractor. The cost of correction is subject to verification (but not approval) by the Architect/Engineer. If payments then or thereafter due the Prime Contractor are not sufficient to cover the cost of correction, the Prime Contractor shall pay the difference to the Owner.

2.5 NOTICE TO PROCEED

After final execution of the Contract and receipt and approval of the required performance and payment bonds and evidence of required insurance, the Owner will issue a written Notice to Proceed with the Work, including the designated Contract Time within which Substantial Completion of the Work must be achieved. If the Owner unreasonably delays issuance of a written Notice to Proceed through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable adjustment of the Contract Time, if properly claimed pursuant to the requirements of Paragraph 4.3; but the Prime Contractor shall not be entitled to any increase to the Contract Sum whatsoever for this reason.

ARTICLE 3 - THE CONTRACTOR

3.1 DEFINITION OF CONTRACTOR

The Prime Contractor is the person or business entity identified as such in the Building Construction Services Agreement, and is referred to throughout the Contract Documents as if singular in number. The term "Prime Contractor" means the Prime Contractor or the Prime Contractor's authorized employees or representatives.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

(a) The Prime Contractor shall carefully check, study, and compare the Contract Documents with each other and shall at once report to the Architect/Engineer in writing any inconsistency, ambiguity, error, omission, conflict, or discrepancy the Prime Contractor may discover. The Prime Contractor shall also verify all dimensions, field measurements, and field conditions before laying out the Work. The Prime Contractor will be held responsible for any subsequent error, omission, conflict, or discrepancy which might have been avoided by the above-described check, study, comparison, and reporting. In the event the Prime Contractor continues to work on an item where an inconsistency, ambiguity, error, omission, conflict, or discrepancy exists without obtaining such clarification or resolution or commences an item of the Work without giving written notice of an error, omission, conflict, or discrepancy that might have been avoided by the check, study, and comparison required above, it shall be deemed that the Prime Contractor bid and intended

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to execute the more stringent, higher quality, or state of the art requirement, or accepted the condition “as is” in the Contract Documents, without any increase to the Contract Sum or Contract Time. The Prime Contractor shall also be responsible to correct any failure of component parts to coordinate or fit properly into final position as a result of Prime Contractor's failure to give notice of and obtain a clarification or resolution of any error, omission, conflict, or discrepancy, without any right to any increase to the Contract Sum or Contract Time.

(b) The Prime Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Paragraph 3.12.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

(a) The Prime Contractor shall supervise and direct the Work, using the Prime Contractor’s best skill and attention. The Prime Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work, unless the Contract Documents set forth specific instructions concerning these matters.

(b) The Prime Contractor shall be responsible to the Owner for the acts and omissions of the Prime Contractor’s employees, Subcontractors, Sub-subcontractors, and their respective agents and employees, and any other persons performing portions of the Work under a subcontract with the Prime Contractor, or with any Subcontractor, and all other persons or entities for which the Prime Contractor is legally responsible. All labor shall be performed by mechanics that are trained and skilled in their respective trades. Standards of work required throughout shall be of a quality that will bring only first class results. Mechanics whose work is unsatisfactory, or who are considered careless, incompetent, unskilled, or otherwise objectionable shall be dismissed promptly from the Work and immediately replaced with competent, skilled personnel. Any part of the Work adversely affected by the acts or omissions of incompetent, unskilled, careless, or objectionable personnel shall be immediately corrected by the Prime Contractor.

(c) The Prime Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect/Engineer in the Architect/Engineer’s administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Prime Contractor.

(d) The Prime Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Prime Contractor's responsibility under this paragraph will not in any way eliminate the Architect/Engineer's responsibility to the Owner under the Architect/Engineer/Owner Agreement.

(e) Any Prime Contractor, Subcontractor, Sub-subcontractor, or separate contractor who commences Work over, in, or under any surface prepared by the Owner or by any other contractor, subcontractor, sub-subcontractor or any separate contractor, without the Prime

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Contractor having given written notice to the Architect/Engineer of the existence of any faulty surface or condition in the surface that prevents achieving the quality of workmanship specified by the Contract Documents and without having obtained the prior approval of the Architect/Engineer and the Owner to proceed is deemed to have accepted the surface or condition in the surface as satisfactory at the commencement of such Work. Any unsatisfactory Work subsequently resulting from such a faulty surface or condition in the surface that was not pre-approved by the Architect/Engineer or the Owner after notice as provided above may be rejected and replacement required, without any increase to the Contract Sum or Contract Time.

(f) All grades, lines, levels, and benchmarks shall be established and maintained on an ongoing basis by the Prime Contractor. The Prime Contractor is solely responsible for any errors made in establishing or maintaining proper grades, lines, levels, or benchmarks. Contractor shall verify all grades, lines, levels, and dimensions as indicated on Drawings. He shall report any errors, omissions, conflicts, or inconsistencies to Architect/Engineer before commencing any Work affected by these conditions. Contractor shall establish and safeguard benchmarks in at least two widely separated places and, as Work progresses, establish benchmarks at each level and lay out partitions on rough floor in exact locations as guides to all trades. The Contractor shall, from the permanent benchmark provided by the Owner, establish and maintain adequate horizontal and vertical control.

3.4 LABOR AND MATERIALS

(a) Except as is otherwise specifically provided in the Contract Documents as being the responsibility of the Owner, the Prime Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

(b) The Prime Contractor shall enforce strict discipline and good order among the Prime Contractor's employees and all other persons carrying out the Contract. The Prime Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

(c) The Prime Contractor shall give preference, when qualified labor is available to perform the Work to which the employment relates, to all labor hired for the Project in the following order:

(1) residents of the City of Denton, Texas;

(2) residents of the County of Denton, Texas;

3.5 WARRANTY

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(a) General Warranty. The Contractor warrants to the Owner that all Work shall be accomplished in a good and workmanlike manner and that all materials and equipment furnished under the Contract will be of good quality, new (unless otherwise specified), and free from faults or defects, and that the Work will otherwise conform to the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, will be considered defective or nonconforming. The Contractor's warranty excludes any remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The commencement date, duration, and other conditions related to the scope of this general warranty are established in Subparagraphs 9.9 (a) and 12.2(b) of these General Conditions. THE GENERAL WARRANTY PROVIDED IN THIS SUBPARAGRAPH IS IN ADDITION TO AND DOES NOT LIMIT OR DISCLAIM ANY OTHER WARRANTY OR REMEDY REQUIRED OR PROVIDED BY LAW OR THE CONTRACT DOCUMENTS AND SUCH WARRANTY SHALL REQUIRE THE CONTRACTOR TO REPLACE DEFECTIVE MATERIALS AND RE-EXECUTE DEFECTIVE WORK THAT IS DISCLOSED BY THE OWNER TO THE CONTRACTOR WITHIN A PERIOD OF TWO (2) YEARS AFTER SUBSTANTIAL COMPLETION OF THE ENTIRE WORK; OR, IF A LATENT DEFECT IS DISCOVERED WITHIN TWO YEARS OF SUBSTATIONAL COMPLETION OF THE ENTIRE WORK.

(b) Special Warranties. The Contractor shall assign to the Owner in writing, as a condition precedent to final payment, the terms and conditions of all special warranties required under the Contract Documents.

3.6 TAXES

The Owner qualifies for exemption from state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sales and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnished and incorporated into the real property being improved under the Contract Documents or the purchase of materials, supplies and other tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, necessary and essential for performance of the Contract which is to be completely consumed at the job site. The Contractor shall issue an exemption certificate in lieu of the tax on such purchases.

3.7 PERMITS, FEES AND NOTICES

(a) The Architect/Engineer will apply and arrange for the issuance of the City of Denton Building Permit. The Prime Contractor and Subcontractors will apply and arrange for the issuance of all other required permits, and will not be required to pay a fee for any City of Denton permits required for the Project. The Owner will pay all service extension charges, including tap fees, assessed by the Water Utilities Department.

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(b) The Prime Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of governmental entities or agencies applying to performance of the Work.

(c) Except as provided in Subparagraph (d) below, it is not the Prime Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, ordinances, construction codes, and rules and regulations. However, if the Prime Contractor observes that portions of the Contract Documents are at variance with applicable laws, ordinances, construction codes, rules or regulations, the Prime Contractor shall promptly notify the Architect/Engineer and the Owner in writing, and necessary changes shall be accomplished by appropriate Amendment.

(d) If the Prime Contractor performs Work knowing it to be contrary to laws, ordinances, construction codes, or rules and regulations without notifying the Architect/Engineer and the Owner, the Prime Contractor shall assume full responsibility for the Work and shall bear the attributable costs of the correction of the Work and any other Work in place that may be adversely affected by the corrective work.

3.8 ALLOWANCES

(a) The Prime Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for the amounts identified in the Contract and by persons or entities as the Owner may direct, but the Prime Contractor shall not be required to employ persons or entities against which the Prime Contractor makes reasonable objection.

(b) Unless otherwise provided in the Contract Documents:

(1) materials and equipment under an allowance shall be selected promptly by the Owner to avoid delay in the Work;

(2) the amount of each allowance shall cover the cost to the Prime Contractor of materials and equipment delivered at the site less all exempted taxes and applicable trade discounts;

(3) the amount of each allowance includes the Prime Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance Work;

(4) whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect:

(i) the difference between actual costs and the allowances under Clause (b) (2); and

(ii) changes in Contractor's costs under Clause (b) (3);

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(5) the Owner retains the right to review and approve Subcontractors selected by the Prime Contractor to perform work activities covered by allowances.

3.9 SUPERINTENDENT

The Prime Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Prime Contractor, and communications given to the superintendent shall be as binding as if given to the Prime Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Owner reserves the right to request that the Prime Contractor replace its superintendent at any time and the Prime Contractor will replace said superintendent at the Owner's direction.

3.10 PRIME CONTRACTOR'S CONSTRUCTION SCHEDULES

(a) The Prime Contractor shall, immediately after award of the Contract and before submittal of the first Application for Payment, prepare and submit the construction schedule for the Architect/Engineer's and Owner's information, review, and approval in accordance with the following provisions:

(1) Unless otherwise approved in writing by the Owner, the construction schedule shall not exceed the Contract Time limits currently in effect under the Contract Documents and shall provide for expeditious and practicable execution of the Work.

(2) The construction schedule shall include all shop drawing and submittal data requirements, indicating for each:
(i) the latest date to be submitted by the Prime Contractor; and
(ii) the latest date for approval by the Architect/Engineer.

(3) The construction schedule shall be in the form of a critical path management schedule, and shall indicate each critical task (the "predecessor") of all the major construction activities of the Work in a logical and sequential order (the "project network") which requires completion prior to commencement of the task next following (the "successor"). Each task shall be identified with:

(i) actual work time, exclusive of slack time, for accomplishment;

(ii) the latest start date;

(iii) the latest finish date;

(iv) the amount of float associated with each task;

(v) the amount of labor, material, and equipment associated with each task; and

(vi) the percentage of completion as of the date of the current schedule.

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(4) The construction schedule shall be revised and updated monthly to reflect the actual status of the Work and shall be submitted with each Application for Payment.

(5) On or before the first day of each month, following the date of commencement of the Work as stated in the notice to proceed, the Prime Contractor shall prepare and submit to the Architect/Engineer and the Owner an up-to-date status report of the progress of the various construction phases of the Work in the form of an updated construction schedule. This status report shall consist of a time scale drawing indicating actual progress of the various phases of the Work and the percentage of completion of the entire Work. The original construction schedule shall be updated or changed to indicate any adjustments to the Contract Time granted by the Owner. The updated schedule must be submitted with the Prime Contractor's Application for Payment. No such application will be certified without a satisfactory update to the construction schedule.

(6) The construction schedule will also be revised to show the effect of change orders and other events on Contract Time. No request for an increase in Contract Time will be considered unless it is accompanied by a schedule revision demonstrating the amount of time related to the cause of the request. If the Contractor's status schedules reflect that the Prime Contractor has fallen behind the pace required to complete the Work within the Contract Time, through no fault of the Owner, the Prime Contractor shall prepare a recovery schedule demonstrating how it intends to bring its progress back within the Contract Time. This recovery schedule shall be in a form acceptable to the Owner.

(7) Costs incurred by the Prime Contractor in preparing and maintaining the required construction schedule, any updated schedule, and any recovery schedule required by the Owner will not be paid as an additional or extra cost and shall be included in the Contract Sum.

(8) The Contract Sum is deemed to be based upon a construction schedule requiring the full Contract Time. NO CLAIM FOR ADDITIONAL COMPENSATION SHALL BE ALLOWED AS A RESULT OF THE PRIME CONTRACTOR BASING HIS BID ON AN EARLY COMPLETION SCHEDULE, OR AS A RESULT OF DELAYS AND COSTS ATTRIBUTABLE TO COMPLETION LATER THAN THE PLANNED EARLY COMPLETION DATE.

(b) The Prime Contractor shall also prepare and keep current, for the Architect/Engineer's approval, a schedule of submittals which is coordinated with the Prime Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals.

(c) The Prime Contractor shall conform to the most recent schedules approved as to form by the Architect/Engineer and the Owner. Any subsequent revisions made by the Prime Contractor to schedules in effect shall conform to the provisions of Subparagraph 3.10(a)

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(d) If the Work falls behind the approved construction schedule, the Prime Contractor shall take such steps as may be necessary to improve his progress, and the Architect/Engineer and the Owner may require him to increase the number of shifts, overtime operations, days of work, or the amount of construction plant, and to submit for approval revised schedules in the form required above in order to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Owner.

3.11 DOCUMENTS AND SAMPLES AT THE PROJECT SITE

The Contractor shall maintain at the Project site for the Owner one record copy of the Drawings, Specifications, addenda, and Amendments in good order and marked currently to record changes and selections made during construction, and in addition shall maintain at the Project site approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be available to the Architect/Engineer and shall be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work.

3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

(a) Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, materialmen, manufacturer(s), supplier(s), or distributor(s) to illustrate some portion of the Work.
(b) Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
(c) Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
(d) Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect/Engineer is subject to the limitations of Paragraph 4.2.
(e) The Prime Contractor shall review, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner, or of separate contractors. Submittals made by the Prime Contractor which are not required by the Contract Documents may be returned without action.
(f) The Prime Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been approved by the Architect/Engineer. Work requiring this submittal and review shall be in accordance with approved submittals and any identified exceptions noted by the Architect/Engineer.

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(g) By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Prime Contractor represents that the Prime Contractor has determined and verified materials, field measurements, and related field construction criteria, or will do so, and has checked and coordinated the information contained within submittals with the requirements of the Work and of the Contract Documents. The Prime Contractor's attention is directed to Paragraph 3.2 of these General Conditions and the requirements stated in that Paragraph.

(h) The Prime Contractor shall not be relieved of responsibility for deviations, substitutions, changes, additions, deletions or omissions from requirements of the Contract Documents by the Architect/Engineer's approval of Shop Drawings, Product Data, Samples, or similar submittals unless the Prime Contractor has specifically informed the Architect/Engineer in writing of such substitutions, changes, additions, deletions, omissions, or deviations involved in the submittal at the time of submittal and the Architect/Engineer, subject to a formal Change Order signed by the Owner, Architect/Engineer and Prime Contractor, has given written approval to the specific substitutions, changes, additions, deletions, omissions, or deviations. The Prime Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect/Engineer's approval thereof. Further, notwithstanding any approval of a submittal by the Architect/Engineer, the Prime Contractor shall be responsible for all associated Project costs, including costs of coordination’s, modifications, or impacts, direct or indirect, resulting from any and all substitutions, changes, additions, deletions, omissions, or deviations, whether or not specifically identified by the Prime Contractor to the Architect/Engineer at the time of the above-mentioned submittals, including additional consulting fees, if any, in any and all accommodations associated with such substitutions, changes, additions, deletions, omissions, or deviations to the requirements of the Contract Documents.

(i) The Prime Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to additional revisions other than those requested by the Architect/Engineer on previous submittals. In the absence of such written notice, the Architect/Engineer’s approval of a resubmission shall not apply to the additional revisions not requested.

(j) Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents.

(k) When professional certification of performance criteria of materials, systems, or equipment is required by the Contract Documents, the Architect/Engineer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

3.13 USE OF THE PROJECT SITE

The Prime Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents and shall not unreasonably encumber the Project site with materials or equipment.

3.14 CUTTING AND PATCHING

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(a) The Prime Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

(b) The Prime Contractor shall not damage or endanger a portion of the Work or any fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering the construction, or by excavating. The Prime Contractor shall not cut or otherwise alter the construction by the Owner or a separate contractor except with the written consent of the Owner and of the separate contractor; consent shall not be unreasonably withheld. The Prime Contractor shall not unreasonably withhold from the Owner or a separate contractor the Prime Contractor's consent to cutting or otherwise altering the Work.

(c) A "Hot Work Permit" must be obtained from the City of Denton's Facilities Management Department, 869 S. Woodrow Lane, Denton, Texas (940 349-7200) for any temporary operation involving open flames or producing heat and/or sparks. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Torch Applied Roofing and Welding.

3.15 CLEANING UP

(a) The Prime Contractor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Upon the completion of the Work the Prime Contractor shall remove from and about the Project site all waste materials, and rubbish, and all of the Prime Contractor's tools, construction equipment, machinery, and surplus materials.

(b) If the Prime Contractor fails to clean up as provided in the Contract Documents, the Owner may, at Owner's option, clean up the Project site, and the Owner's cost of cleaning up shall be charged to the Contractor.

3.16 ACCESS TO WORK

The Prime Contractor shall provide the Owner and the Architect/Engineer access to the Work in preparation and progress wherever located during the course of construction.

3.17 TESTS AND INSPECTIONS

(a) Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of governmental entities or agencies having jurisdiction over the Work shall be made at appropriate times. Unless otherwise provided, the Prime Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner or with the appropriate governmental entity or agency, and the Prime Contractor shall bear all related costs of tests, inspections, and approvals. The Prime Contractor shall give the Architect/Engineer timely notice of when and where tests and inspections are to be made so the Architect/Engineer may observe such procedures. The Owner shall bear

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costs of tests, inspections, or approvals which become requirements after bids or proposals are received.

(b) If the Architect/Engineer, the Owner or other public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval not included under Subparagraph 3.17(a), the Architect/Engineer will, upon written authorization from the Owner, instruct the Prime Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Prime Contractor shall give timely notice to the Architect/Engineer of when and where tests and inspections are to be made so that the Architect/Engineer may observe such procedures. The Owner shall bear such costs except as provided in Subparagraph 3.17(c).

(c) If procedures for testing, inspection, or approval under Subparagraphs 3.17(a) and 3.17(b) reveal deficiencies or nonconformities in the Work, the Prime Contractor shall bear all costs made necessary to correct the deficiencies or nonconformities, including those of repeated procedures and compensation for the Architect/Engineer's services and expenses, if any. The Prime Contractor shall bear the costs of any subsequent testing, inspection, or approval of the corrected Work.

(d) Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Prime Contractor and promptly delivered to the Architect/Engineer.

(e) If the Architect/Engineer is to observe tests, inspections or approvals required by the Contract Documents, the Architect/Engineer will do so promptly and, where practicable, at the normal place of testing or inspection.

(f) Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

3.18 ROYALTIES AND PATENTS

The Contractor shall pay all royalties and license fees. CONTRACTOR SHALL COMPLETELY DEFEND, INDEMNIFY AND HOLD OWNER AND ARCHITECT/ENGINEER HARMLESS FROM ANY AND ALL LIABILITIES, SUITS OR CLAIMS FOR INFRINGEMENT OF PATENT RIGHTS, REGARDLESS OF WHETHER OR NOT THE OWNER OR THE ARCHITECT/ENGINEER SPECIFIED A PARTICULAR DESIGN, PROCESS OR PRODUCT IN THE CONTRACT DOCUMENTS THAT MAY BE THE SUBJECT OF A PATENT INFRINGEMENT OR OTHERWISE ACTIVELY INDUCED OR CONTRIBUTED TO THE PATENT INFRINGEMENT. In the event the Prime Contractor has reason to believe that a particular design, process or product specified infringes a patent, the Prime Contractor shall immediately notify the Owner and the Architect/Engineer of same.

3.19 INDEMNIFICATION

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(a) THE PRIME CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE OWNER, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE ARCHITECT/ENGINEER, HARMLESS AGAINST ANY AND ALL CLAIMS, LIABILITIES, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE PRIME CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE PRIME CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, OR OF THE ARCHITECT/ENGINEER, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OR FAULT OF THE CONTRACTOR, THE OWNER, AND THE ARCHITECT/ENGINEER, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE OWNER UNDER TEXAS LAW, AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER THIRD PERSON OR ENTITY.

(b) In claims against any person or entity indemnified under this Paragraph 3.19 by an employee of the Prime Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 3.19 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Prime Contractor or any Subcontractor, under workers compensation acts, disability benefit acts or other employee benefit acts.

(c) Indemnification under this Paragraph 3.19 shall include, but is not limited to, liability which could result to or be created for the Owner, its officers, agents, or employees, or the Architect/Engineer pursuant to State or Federal laws or regulations relating to pollution of the environment and State or Federal laws or regulations relating to the occupational safety and health of workers. The Prime Contractor specifically agrees to comply with the above-mentioned laws and regulations in the performance of the Work by the Prime Contractor and that the obligations of the Owner, its officers, agents, and employees, and the Architect/Engineer under the above-mentioned laws and regulations are secondary to those of the Prime Contractor.

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ARTICLE 4 - CONTRACT ADMINISTRATION

4.1 THE DESIGN PROFESSIONAL (ARCHITECT/ENGINEER)

(a) The design professional is the person lawfully licensed to practice architecture or engineering or a firm or other business entity lawfully practicing architecture/engineering identified as such in the formal Building Construction Services Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect/Engineer" means the Architect/Engineer or the Architect/Engineer's authorized representative. The Owner may, at its option, designate a qualified Owner representative to serve as the Architect/Engineer on the Project instead of an outside firm or person. In such event, the references in these General Conditions that refer to the Architect/Engineer shall apply to the Owner-designated Architect/Engineer representative and the Owner-designated Architect/Engineer representative shall be accorded that same status by the Prime Contractor.

(b) In the event the Architect/Engineer is an outside person or firm and the Architect/Engineer's employment is terminated, the Owner may, at its option, contract with a new outside Architect/Engineer to replace the former, or may designate a qualified Owner representative to serve as the Architect/Engineer. The replacement Architect/Engineer, whether an Owner representative, an independent Architect/Engineer or any other qualified person or entity, shall be regarded as the Architect/Engineer for all purposes under the Contract Documents and shall be accorded that same status by the Prime Contractor. Any dispute in connection with such appointment shall be reviewed and settled by the Owner, whose decision shall be final and binding.

(c) Owner reserves the right to appoint a representative empowered to act for the Owner during the Construction Phase and to supersede the Architect/Engineer's Construction Phase responsibility. Similarly, from time to time the Owner may expand or reduce the Owner's delegation of powers to the Architect/Engineer, with the Owner notifying the Prime Contractor of any such changes. The Architect/Engineer shall not be construed as a third party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth in this Subparagraph (c). In no event, however, shall the Owner have control over charge of, or be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs in connection with the Work since these are solely the Contractor's responsibility. The Owner will not be responsible for the Prime Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for acts or omissions of Prime Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

4.2 ARCHITECT/ENGINEER'S RESPONSIBILITIES DURING CONSTRUCTION

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(a) The Architect/Engineer will administer the Contract as described in the Contract Documents and in accordance with the terms of the Architect/Engineer's agreement with the Owner, where applicable, subject to the direction and approval of the Owner. If requested by the Prime Contractor, the provisions of the Owner/Architect/Engineer Agreement will be made available to the Prime Contractor.

(b) The Architect/Engineer shall provide, during performance of the Work, adequate and competent periodic on-site construction observation, periodically visiting the Project site to the extent necessary to personally familiarize themselves with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. The Architect/Engineer shall not, however, be required to make continuous on-site inspections to check the Work. Field reports of each visit shall be prepared by the Architect/Engineer and submitted to the Owner. The Architect/Engineer shall employ all reasonable measures to safeguard the Owner against defects and nonconformities in the Work. The Architect/Engineer shall not be responsible for the construction means, methods, techniques, sequences of procedures, nor for the safety precautions and programs employed in connection with the Work. The Architect/Engineer will, however, immediately inform the Owner whenever defects or nonconformities in the Work are observed, or when any observed actions or omissions are undertaken by the Prime Contractor or any Subcontractor which are not in the best interests of the Owner or the Project.

(c) The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Prime Contractor’s responsibility as provided in Paragraph 4.3. The Architect/Engineer and the Owner will not be responsible for the Prime Contractor’s failure to carry out the Work in accordance with the Contract Documents. The Architect/Engineer and the Owner will not have control over or charge of and will not be responsible for acts or omissions of the Prime Contractor, Subcontractors, Sub-subcontractors, or their respective agents or employees, or of any other persons performing portions of the Work for which the Prime Contractor is responsible.

(d) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Prime Contractor shall endeavor to communicate through the Architect/Engineer. Communications by and with the Architect/Engineer’s consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Prime Contractor. Communications by and with separate contractors will be through the Owner. The Prime Contractor shall provide written confirmation of communications made directly with the Owner and provide copies of such confirmation to the Architect/Engineer.

(e) Based on the Architect/Engineer’s observations and evaluations of the Prime Contractor’s Applications for Payment, the Architect/Engineer will review and certify the amounts due the Prime Contractor and will issue Certificates for Payment in such amounts.

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(f) The Architect/Engineer and the Owner will each have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect/Engineer considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect/Engineer will have authority to require additional inspection or testing of the Work in accordance with Subparagraphs 3.17(b) and 3.17(c), whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect/Engineer nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Architect/Engineer to the Prime Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

(g) The Architect/Engineer will review and approve or take other appropriate action upon the Prime Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect/Engineer's action will be taken with such reasonable promptness as to not delay the Work or the activities of the Owner, Contractor, or separate contractors. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Prime Contractor as required by the Contract Documents. The Architect/Engineer's review of the Prime Contractor's submittals shall not relieve the Prime Contractor of any obligations under Paragraphs 3.3, 3.5, and 3.12. The Architect/Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated in writing by the Architect/Engineer, of any construction means, methods, techniques, sequences, or procedures. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

(h) The Architect/Engineer will prepare Change Orders and may authorize minor changes in the Work as provided in Paragraph 7.3.

(i) The Architect/Engineer will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner for the Owner's review and records written warranties and related documents required by the Contract and assembled by the Prime Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

(j) If the Owner and Architect/Engineer agree, the Architect/Engineer will provide one or more Project representatives to assist in carrying out the Architect/Engineer's responsibilities at the site. The duties, responsibilities, and limitations of authority of such Project representatives shall be as set forth in an exhibit to be incorporated into the Contract Documents.

(k) The Architect/Engineer will interpret and make recommendations to the Owner concerning performance under and requirements of the Contract Documents upon written request of either the Owner or Contractor. The Architect/Engineer's response to such requests will be

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made with reasonable promptness and within any time limits agreed upon. The Architect/Engineer shall secure the Owner's written approval before issuing instructions, interpretations, or judgments to the Prime Contractor which change the scope of the Work or which modify or change the terms and conditions of any of the Contract Documents.

(l) Interpretations and decisions of the Architect/Engineer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. When making such interpretations and decisions, the Architect/Engineer will endeavor to secure faithful performance by the Prime Contractor.

(m) The Architect/Engineer's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents; provided that the Architect/Engineer has the prior written approval of the Owner.

4.3 CLAIMS AND DISPUTES

(a) Definition; General Notice of Claim Procedure. As used in these General Conditions, a "Claim" means a demand or assertion by one of the parties to the Contract seeking an adjustment of the terms of the Contract Documents, of the Contract Sum, of the Contract Time, or some other relief in respect to the terms of the Contract Documents. The term also includes all other disputes between the Owner and the Contractor arising out of or relating to the Project or the Contract Documents, including but not limited to claims that work was outside the scope of the Contract Documents. The responsibility to substantiate the Claim and the burden of demonstrating compliance with this provision shall rest with the party making the Claim. Except where otherwise provided in the Contract Documents, a Claim by the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, WITHOUT EXCEPTION, MUST BE MADE BY WRITTEN NOTICE TO THE ARCHITECT/ENGINEER AND TO THE OWNER WITHIN FOURTEEN (14) DAYS IMMEDIATELY AFTER OCCURRENCE OF THE EVENT OR EVENTS GIVING RISE TO THE PARTICULAR CLAIM. Every Claim of the Prime Contractor, whether for additional compensation, additional time, or other relief, including but not limited to claims arising from concealed conditions, shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the Prime Contractor by his signature) of the Prime Contractor, verifying the truth and accuracy of the Claim. THE PRIME CONTRACTOR SHALL BE CONCLUSIVELY DEEMED TO HAVE WAIVED ANY CLAIM NOT MADE STRICTLY IN ACCORDANCE WITH THE PROCEDURES AND TIME LIMITS SET OUT IN THIS PARAGRAPH.

(b) Referral to the Architect/Engineer. Claims, disputes, and other matters in question between the Prime Contractor and the Owner relating to the progress or execution of the Work or the interpretation of the Contract Documents shall be referred to the Architect/Engineer for recommendation to the Owner, which recommendation the Architect/Engineer will furnish in writing within a reasonable time, provided proper and adequate substantiation has been received. Failure of the Prime Contractor to submit the Claim to the Architect/Engineer for rendering of a recommendation to the Owner shall constitute a waiver of the Claim.

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(c) Continuing Contract Performance. Pending final resolution of a claim the Prime Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make payments in accordance with the Contract Documents.

(d) Claims for Concealed or Unknown Conditions. No adjustment in the Contract Sum or Time associated with concealed or unknown conditions will normally be considered or allowed; provided, however, that the Contract Sum or Time may be adjusted by the Owner in such circumstances only if:

(1) a concealed subsurface condition is encountered in the course of performance of the Work;
(2) a concealed or unknown condition in an existing structure is at variance with conditions indicated by the Contract Documents; or
(3) an unknown physical condition is encountered below the surface of the ground or in an existing structure which is of an unusual nature and materially different from those ordinarily encountered and generally recognized as inherent in the character of the Work; and
(4) a notice of claim with proper and adequate substantiation is presented pursuant to Subparagraph 4.3(a) of these General Conditions; and
(5) the Owner and the Architect/Engineer determine that:

(i) prior to submitting its bid for the Work, the Contractor used reasonable diligence to fully inspect the portion of the Project site where the condition was discovered; and

(ii) the work caused or required by the concealed or unknown condition at issue can be considered extra work to the extent that additional new Drawings must be prepared and issued and new construction beyond the scope of the Contract Documents is required.

(e) Disclaimer of Warranties as to Reports, Drawings, and Specifications. PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER AND THE ARCHITECT/ENGINEER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE PRIME CONTRACTOR AT THE PRIME CONTRACTOR'S OWN RISK. THE OWNER AND THE ARCHITECT/ENGINEER DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

(f) Claims for Additional Cost. If the Prime Contractor wishes to make a claim for an increase in the Contract Sum, written notice as provided in this Paragraph 4.3 shall be given before proceeding to execute the Work. Prior notice is not required for claims relating to an emergency endangering life or property arising under Paragraph 10.3. In addition, the Prime Contractor's request for an increase in the Contract Sum for any reason (other than work performed under emergency conditions) shall be made far enough in advance of required work to allow the Owner and the Architect/Engineer a sufficient amount of time, without adversely affecting the construction schedule, to review the request, prepare and distribute such additional documents as may be necessary to obtain suitable estimates or

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proposals and to negotiate, execute and distribute a Change Order for the required work if the Prime Contractor believes that additional cost is involved for reasons including but not limited to:

(1) a written interpretation from the Architect/Engineer;

(2) a written order for a minor change in the Work issued by the Architect/Engineer;

(3) failure of payment by the Owner;

(4) termination of the Contract by the Owner;

(5) the Owner's temporary suspension of all or any portion of the Work where the Prime Contractor was not at fault; or

(6) other reasonable grounds.

(g) Injury or Damage to Person or Property. If the Prime Contractor suffers injury or damages to person or property because of an act or omission of the Owner, or of any of the Owner's officers, employees or agents, written, sworn-to notice of any claim for damages or injury shall be given as provided in Subparagraph 4.3(a). The notice shall provide sufficient detail to enable the Architect/Engineer and the Owner to investigate the matter.

(h) Subcontractor Pass-Through Claims. In the event that any Subcontractor of the Prime Contractor asserts a claim to the Prime Contractor, that the Prime Contractor seeks to pass through to the Owner under the Contract Documents, any entitlement of the Prime Contractor to submit and assert the claim against the Owner shall be subject to:

(1) the requirements of Paragraph 4.3 of these General Conditions; and

(2) the following additional three requirements listed below, all three of which additional requirements shall be conditions precedent to the entitlement of the Prime Contractor to seek and assert such claim against the Owner:

(ii) The Prime Contractor shall either (A) have direct legal liability as a matter of contract, common law, or statutory law to the Subcontractor for the claim that the Subcontractor is asserting or (B) the Prime Contractor shall have entered into a written liquidating agreement with the Subcontractor, under which agreement the Prime Contractor has agreed to be legally responsible to the Subcontractor for pursuing the assertion of such claim against the Owner under the Contract and for paying to the Subcontractor any amount that may be recovered, less Prime Contractor's included markup (subject to the limits in the Contract Documents for any markup). The liability or responsibilities shall be identified in writing by the Prime Contractor to the Owner at the time such claim is submitted to Owner, and a copy of any liquidating agreement shall be included by the Prime Contractor in the claim submittal materials.

(ii) The Prime Contractor shall have reviewed the claim of the Subcontractor prior to

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its submittal to Owner and shall have independently evaluated such claim in good faith to determine the extent to which the claim is believed in good faith to be valid. The Prime Contractor shall also certify, in writing and under oath to the Owner, at the time of the submittal of such claim, that the Prime Contractor has made a review, evaluation, and determination that the claim is made in good faith and is believed by the Contractor to be valid.

(iii) The Subcontractor making the claim to the Prime Contractor shall certify in writing and under oath that it has compiled, reviewed and evaluated the merits of such claim and that the claim is believed in good faith by the Subcontractor to be valid. A copy of the certification by the Subcontractor shall be included by Prime Contractor in the claim submittal materials made by Contractor to the Owner..

(3) Any failure of the Prime Contractor to comply with any of the foregoing requirements and conditions precedent with regard to any such claim shall constitute a waiver of any entitlement to submit or pursue such claim against Owner.

(4) Receipt and review of a claim by the Owner under this Subparagraph shall not be construed as a waiver of any defenses to the claim available to the Owner under the Contract Documents or by applicable law.

(i) Owner’s Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part. The Prime Contractor acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner. The following provisions, therefore, will apply:

(1) If the Prime Contractor falls behind the approved construction schedule for whatever reason, the Owner shall have the right, in the Owner’s sole discretion, to order the Prime Contractor to develop a recovery schedule as described in Paragraph 3.10 or to accelerate its progress in such a manner as to achieve Substantial Completion on or before the Contract Time completion date or such other date as the Owner may reasonably direct and, upon receipt, the Prime Contractor shall take all action necessary to comply with the order. In such event, any possible right, if any, of the Prime Contractor to additional compensation for any acceleration shall be subject to the terms of this Subparagraph (i).

(2) In the event that the Prime Contractor is otherwise entitled to an extension of Contract Time and has properly initiated a Claim for a time extension in accordance with Subparagraph 4.3(a) above, the Owner shall have the right, in the Owner’s sole discretion, to deny all, or any part, of the Claim for extension of Contract Time by giving written notice to the Prime Contractor provided within fourteen (14) days after receipt of the Prime Contractor's Claim. If the Owner denies the Prime Contractor's claim for an extension of Contract Time under this Clause (i)(2), either in whole or in part, the Prime Contractor shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

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(3) If the Prime Contractor would have been entitled to a time extension for a reason specifically allowed under the Contract Documents, for an amount of time that would have justified approval by the Owner if not for the need and right to accelerate, the Prime Contractor may initiate a Claim for acceleration costs pursuant to Subparagraph 4.3(a). Any resulting Claim for acceleration costs properly initiated by the Prime Contractor under Subparagraph 4.3(a) above shall be limited to those reasonable and documented direct costs of labor, materials, equipment, and supervision solely and directly attributable to the actual acceleration activity necessary to bring the Work back within the then existing approved construction schedule. These direct costs include the premium portion of overtime pay, additional crew, shift, or equipment costs if requested in advance by the Contractor and approved in writing by the Owner. A percentage markup for the prorated cost of premium on the existing performance and payment bonds and required insurance; provided however, not to exceed five (5%) per cent, will be allowed on the claimed acceleration costs. NO OTHER MARKUP FOR PROFIT, OVERHEAD (INCLUDING BUT NOT LIMITED TO HOME OFFICE OVERHEAD) OR ANY OTHER COSTS WILL BE ALLOWED ON ANY ACCELERATION CLAIM. The Owner shall not be liable for any costs related to an acceleration claim other than those described in this Clause (i)(3).

(i) Waiver of Claims; Final Payment. The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

(1) claims, security interests, purported liens, or other attempted encumbrances arising out of the Contract and remaining unsettled;

(2) defective or nonconforming Work appearing after Substantial Completion;

(3) latent defects, as defined in Subparagraph 12.2(d), appearing after Final Completion; or

(4) the terms of general and special warranties required by the Contract Documents or allowed or implied by law.

(k) THE CONTRACTOR SHALL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES AS A PART OF ANY CLAIM MADE UNDER THE CONTRACT DOCUMENTS OR IN ANY SUBSEQUENT LAWSUIT OR ALTERNATIVE DISPUTE RESOLUTION PROCEEDING.

(l) No Waiver of Governmental Immunity. NOTHING IN THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO WAIVE THE OWNER'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY APPLICABLE STATE LAW.

ARTICLE 5 - SUBCONTRACTORS

5.1 DEFINITIONS OF SUBCONTRACTOR

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(a) A Subcontractor is person or entity who has a direct Contract with the Prime Contractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Prime Contractor by purchase or lease for use in performance of or incorporation into the Work. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(b) A Sub-subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform a portion of the Work at the Project site or to supply materials or equipment to the Subcontractor or another Sub-subcontractor by purchase or lease for use in performance of or incorporation into the Work. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

(a) Immediately after the award of the Contract by the Owner, and before the Building Construction Services Agreement is signed by the Prime Contractor and the Owner, the Prime Contractor shall furnish to the Architect/Engineer in writing, for acceptance by the Owner and the Architect/Engineer, a list of the names, addresses, telephone numbers, M/WBE certification numbers (where applicable), and type of work of the Subcontractors (including those who are to furnish materials or equipment fabricated to a special design), proposed for the principal portions of the Work, including furnishings when made a part of the Contract. The Prime Contractor shall immediately notify the Owner in writing of any changes in the list as they occur. The Architect/Engineer will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect/Engineer, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect/Engineer to reply promptly shall constitute notice of no reasonable objection.

(b) The Prime Contractor shall not Contract with a proposed person or entity to whom the Owner or Architect/Engineer has made reasonable and timely objection.

(c) Architect/Engineer's and Owner's approval of or objection to any Subcontractor or of a particular process or material will not relieve the Prime Contractor of his responsibility for performance of Work as called for under the Contract Documents, and shall not provide a basis for any claim for additional time or money on the part of the Prime Contractor. Approval shall not be construed to create any contractual relationship between the Subcontractor and either the Owner or Architect/Engineer. In no event shall the Contract Sum be increased as a result of the rejection of any Subcontractor.

(d) The Prime Contractor shall not change a Subcontractor previously selected if the Owner or Architect/Engineer makes reasonable objection to such change.

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5.3 SUBCONTRACTUAL RELATIONS

(a) By appropriate agreement, written where legally required for validity, the Prime Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Prime Contractor by the terms of the Contract Documents (including but not limited to these General Conditions), and to assume toward the Prime Contractor all the obligations and responsibilities which the Prime Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and the Architect/Engineer under the Contract Documents (including but not limited to these General Conditions) with respect to the Work to be performed by the Subcontractor so that subcontracting will not prejudice the rights of the Owner and the Architect/Engineer. Where appropriate, the Prime Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Prime Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor is to be bound. Subcontractors shall similarly make copies of applicable portions of such Documents available to their respective proposed Sub-subcontractors.

(b) The Prime Contractor is solely responsible for making payments properly to the Prime Contractor's Subcontractors on the Project. During performance of the Work, the Prime Contractor shall comply with the following additional rules regarding Subcontractor payments:

(1) The Prime Contractor shall submit, beginning with the Second Application and Certificate for Payment, a Subcontractor Payment Report (the "Report") with each Application and Certificate for Payment. The Report shall show all payments made to date by the Prime Contractor (plus existing retainage) to each Subcontractor involved in the Project. The Report shall be made on a form approved and supplied by the Owner. As an alternative to the Report, the Prime Contractor may furnish Affidavits of Payment Received with the Application and Certificate for Payment, which affidavits shall be executed by each Subcontractor owed money and paid by Subcontractor during the previous progress payment period for work or materials furnished on the Project. RECEIPT BY THE OWNER OF THE REPORT OR AFFIDAVITS OF PAYMENT RECEIVED SHALL BE A CONDITION PRECEDENT TO PAYMENT ON ANY APPLICATION FOR PAYMENT .

(2) If, for any reason, the Prime Contractor is withholding payment to a Subcontractor due to a dispute or other problem with performance, the Prime Contractor shall note the amount withheld and further note that the payment is in dispute. The Owner may, in its sole discretion, require the Prime Contractor to document and verify the dispute or other problem in question.

(3) The Owner reserves the right in its sole discretion, to withhold payment to the Prime Contractor pursuant to Paragraph 9.5(a) of the General Conditions, should it appear from the Report, statements of payment received or other information furnished to the Owner that:

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(i) the Report has not been properly completed;

(ii) the Prime Contractor has knowingly provided false information regarding payment of any Subcontractor; or

(iii) the Prime Contractor has otherwise failed to make payments properly to any Subcontractor.

(4) THE PRIME CONTRACTOR SHALL NOT HAVE ANY RIGHT TO MAKE A CLAIM FOR ADDITIONAL TIME OR ADDITIONAL COMPENSATION AS A RESULT OF THE OWNER'S OR ARCHITECT/ENGINEER'S ENFORCEMENT OF THIS SUBPARAGRAPH 5.3(b). NO PROVISION OF THIS SUBPARAGRAPH OR ANY OF THE CONTRACT DOCUMENTS SHALL BE CONSTRUED TO CREATE A CONTRACTUAL RELATIONSHIP, EXPRESS OR IMPLIED, BETWEEN ANY SUBCONTRACTOR AND EITHER THE OWNER OR THE ARCHITECT/ENGINEER AND SHALL NOT BE CONSTRUED TO MAKE ANY SUBCONTRACTOR OR ANY OTHER PERSON OR ENTITY, A THIRD-PARTY BENEFICIARY OF THE CONTRACT BETWEEN THE OWNER AND THE PRIME CONTRACTOR.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

In the event of a termination of this Contract by the Owner under Article 14, the Prime Contractor shall, if requested in writing by the Owner, within fifteen (15) days after the date notice of termination is sent, deliver and assign to Owner, or any person or entity acting on the Owner's behalf, any or all subcontracts made by Prime Contractor in the performance of the Work, and deliver to the Owner true and correct originals and copies of the subcontract documents. In the event assignment is not requested by the Owner, Prime Contractor shall terminate all subcontracts to the extent that Owner has not directed assignment of same and to the extent that they relate to the performance of Work terminated by the notice of termination.

ARTICLE 6 - CONSTRUCTION BY THE OWNER/ SEPARATE CONTRACTORS

6.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

(a) The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Project site under Conditions of the Contract identical or substantially similar to these General Conditions, including those portions related to insurance and waiver of subrogation. If the Prime Contractor claims that delay or additional cost is involved because of such action by the

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Owner, the Prime Contractor shall make a claim as provided elsewhere in, and in accordance with the Contract Documents.

(b) When separate Contracts are awarded for different portions of the Project or other construction or operations on the Project site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Building Construction Services Agreement with the Owner.

(c) The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Prime Contractor, who shall cooperate with them. The Prime Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Prime Contractor shall, with the approval of the Owner, make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Prime Contractor, separate contractors, and the Owner until subsequently revised by mutual agreement or by written Change Order. If the Prime Contractor believes it is entitled to an adjustment of the Contract Sum under the circumstances, the Prime Contractor shall submit a written proposal for a Change Order pursuant to Article 7 of the General Conditions. In the event the Prime Contractor's Change Order proposal is denied by the Owner, the Prime Contractor must submit any Claim pursuant to Paragraph 4.3 of the General Conditions.

(d) Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Prime Contractor under these General Conditions, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11 and 12.

6.2 MUTUAL RESPONSIBILITY

(a) The Prime Contractor shall afford the Owner and separate contractors' reasonable opportunity for access to and storage of their materials and equipment and the performance of their activities and shall coordinate the Prime Contractor's construction and operations with the separate contractors as required by the Contract Documents.

(b) If part of the Prime Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Prime Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect/Engineer apparent discrepancies or defects in the other construction that would render it unsuitable for proper execution and results. Failure of the Prime Contractor to so report shall constitute an acknowledgment that the Owner's or separate contractors completed or partially completed construction is fit and proper to receive the Prime Contractor's Work, except as to defects not then reasonably discoverable.

(c) The Owner shall not be liable to the prime Contractor for damages suffered by the Prime Contractor due to the fault or negligence of a separate contractor or through failure of a separate contractor to carry out the directions of the Owner or the Architect/Engineer.

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Should any interference occur between the Prime Contractor and a separate contractor, the Architect/Engineer or the Owner may furnish the Prime Contractor with written instructions designating priority of effort or change in methods, whereupon the Prime Contractor shall immediately comply with such direction. In such event, the Prime Contractor shall be entitled to an extension of the Contract Time only for unavoidable delays verified by the Architect/Engineer; no increase in the Contract Sum, however, shall be due to the Prime Contractor.

(d) The Prime Contractor shall promptly remedy damage wrongfully caused by the Prime Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph 10.2(e).

(e) Should the Prime Contractor cause damage to the work or property of any separate contractor on the Project, the Prime Contractor shall, upon due notice, settle with the separate contractor by agreement, if the separate contractor will so settle. If the separate contractor sues the Owner or submits a claim on account of any damage alleged to have been so sustained, the Owner shall notify the Prime Contractor who shall defend such proceedings, at the Prime Contractor's sole expense, and if any judgment or award against the Owner arises from the separate contractor's claim, the Prime Contractor shall fully pay or satisfy it and shall reimburse the Owner for any and all attorney's fees and costs which the Owner has incurred.

(f) The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Prime Contractor in Paragraph 3.14.

6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the Project Site and surrounding area free from waste materials and rubbish as described in Paragraph 3.15, the Owner may clean up, but is not obligated to do so, and Owner shall allocate the cost among those parties responsible, as the Architect/Engineer recommends to be just.

ARTICLE 7 - AMENDMENTS

7.1 CHANGE ORDERS

(a) A Change Order is a written order to the Contractor, signed by the Owner and the Architect/Engineer, issued after execution of the Contract, authorizing a change in the Work, an adjustment in the Contract Sum, or an adjustment to the Contract Time, consistent with other applicable provisions of this Contract. The Owner, without invalidating the Contract and without requiring notice of any kind to the sureties, may order changes to the scope of Work under the Contract by additions, deletions, or other revisions, the Contract Sum and Contract Time to be adjusted consistent with other applicable provisions of this Contract. All Change Orders shall be executed on a Change Order form approved by the Owner and the Owner's City Attorney.

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(b) In addition to the Owner and the Architect/Engineer, the Contractor shall sign all Change Orders to verify and confirm the terms and conditions established by Change Order; however, should the Contractor refuse to sign a Change Order, this shall not relieve him of his obligation to perform the change directed by the Owner and the Architect/Engineer to the best of his ability in accordance with the provisions of this Article 7. A Change Order signed by the Contractor indicates his agreement with all of the changes approved, including the adjustment in the Contract Sum or the Contract Time. EACH CHANGE ORDER SHALL BE SPECIFIC AND FINAL AS TO PRICES AND EXTENSIONS OF TIME, WITH NO RESERVATIONS OR OTHER PROVISIONS ALLOWING FOR FUTURE ADDITIONAL MONEY OR TIME AS A RESULT OF THE PARTICULAR CHANGES IDENTIFIED AND FULLY COMPENSATED IN THE CHANGE ORDER. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work. The Contractor forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order. This release applies to claims related to the cumulative impact of all Change Orders and to any claim related to the effect of a change on other Work.

(c) No extra work (except under emergency conditions) or changes shall be made nor shall any substitutions, changes or additions to or omissions or deviations from the requirements of the Drawings and Specifications be made unless pursuant to a written Change Order signed by the Owner and the Architect/Engineer, it being expressly understood that the Owner shall not be liable for the cost of extra work or any substitution, change, addition, omission or deviation from the requirements of the Drawings or Specifications unless the same shall have been authorized in writing by the Owner and the Architect/Engineer in a written change order or other Amendment. The provisions of this Paragraph 7.1 shall control in the event of any inconsistency between such provisions and the other provisions of this Article 7. See Subparagraph 10.3(a) of the General Conditions for Change Orders under emergency conditions.

(d) The method of determining the cost or credit to the Owner for any change in the Work shall be one of the following:

(1) mutual acceptance of a not-to-exceed lump-sum amount properly itemized and supported by sufficient substantiating data to permit evaluation; or

(2) unit prices stated in the Contract Documents or subsequently agreed upon; or

(3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

(4) the forceaccount method provided in Subparagraph 7.1(e)

(e) If the parties cannot agree to one of the methods of calculating cost provided in Clauses (d) (1), (d) (2), or (d) (3), or if the parties agree to a method but cannot agree on a final dollar figure; or if the Contractor for whatever reason refuses to sign the Change Order in question;the Contractor, provided he receives a written order signed by the Owner, shall

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promptly proceed with the Work involved. The cost of the Work involved shall then be calculated on the basis of the reasonable jobsite expenditures and savings of those performing the Work attributable to the changes, including a reasonable allowance for overhead and profit, such allowance in any case never to exceed fifteen (15%) per cent. In such case, the Contractor shall keep an itemized accounting of the Work involved, on a daily basis, in such form and with the appropriate supporting data as the Architect/Engineer and Owner may prescribe. Sworn copies of the itemized accounting shall be delivered to the Architect/Engineer each day during the performance of force account work, with copies to the Owner.

FAILURE OF THE CONTRACTOR TO SUBMIT THE SWORN-TO ITEMIZED ACCOUNTING DAILY AS REQUIRED HEREIN SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY RIGHT TO DISPUTE THE OWNER'S DETERMINATION OF THE AMOUNT DUE THE CONTRACTOR FOR FORCE ACCOUNT WORK. Costs to be charged under this Subparagraph for force account work are limited to the following:

(1) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker’s compensation insurance;

(2) costs of materials, supplies and equipment (but not to include off-site storage unless approved in writing by the Owner), whether incorporated or consumed;

(3) rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

(4) costs of premiums for all bonds and insurance related to the Work; and

(5) additional costs of supervision and field office personnel directly attributable to the changed Work. Pending final determination of cost to the Owner, payment of undisputed amounts on force account shall be included on the Architect/Engineer's Certificate of Payment as work is completed.

(f) The amount of credit to be allowed to the Owner for any deletion of Work or any other change which results in a net decrease of the Contract Sum shall be the amount of actual net cost confirmed by the Architect/Engineer plus the stated percentage for overhead and profit. When both additions and deletions or credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease with respect to that change.

7.2 SUPPLEMENTAL AGREEMENTS

A written Supplemental Agreement can also be used to implement changes in the Work instead of a Change Order form, including but not limited to situations involving partial occupancy of the Work under Paragraph 9.8, a change made to the Drawings or the Specifications without an increase in the Contract Sum, or special circumstances where it is necessary or more appropriate for the Owner to use a Supplemental Agreement. Written Supplemental Agreements shall have a

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status equal to that of Change Orders for purposes of priority of Contract Documents interpretation, except that to the extent of a conflict, later Supplemental Agreements in time control over earlier Supplemental Agreements, and the latest Change Order or Supplemental Agreement in time controls over earlier dated Change Orders and Supplemental Agreements. The rules of Subparagraphs 7.1(b) through (f) shall also apply to the negotiation and execution of Supplemental Agreements. **7.3 MINOR CHANGES IN THE WORK**

The Architect/Engineer, after notifying the Owner, shall be authorized to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Minor changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly. These written orders shall not be deemed to change or impact the Contract Sum or the Contract Time. Contractor shall have no Claim for any minor change ordered to the Work under this Paragraph 7.3 unless the Contractor submits its change proposal, prior to complying with the minor change ordered and in no event later than ten (10) working days from the date the minor change was ordered, to the Owner for approval.

7.4 TIME REQUIRED TO PROCESS AMENDMENTS

(a) All of the Contractor's responses to proposal requests shall be accompanied by a complete, itemized breakdown of costs. Responses to proposal requests shall be submitted sufficiently in advance of the required work to allow the Owner and the Architect/Engineer a minimum of thirty (30) calendar days after receipt by the Architect/Engineer to review the itemized breakdown and to prepare or distribute additional documents as may be necessary. All of the Prime Contractor's responses to proposal requests shall include a statement that the cost described in the response represents the complete, total and final cost and additional Contract Time associated with the extra work, change, addition to, omission, deviation, substitution, or other grounds for seeking extra compensation under the Contract Documents, without reservation or further recourse.

(b) All Amendments require approval by either the City Council or, where authorized by the State law and City ordinance, by the City Manager pursuant to Administrative Action. The approval process requires a minimum of forty-five (45) calendar days after submission to the Owner in final form with all supporting data. Receipt of a submission by Owner does not constitute acceptance or approval of a proposal, nor does it constitute a warranty that the proposal will be authorized by City Council Resolution, Ordinance or Administrative Action. THE TIME REQUIRED FOR THE APPROVAL PROCESS SHALL NOT BE CONSIDERED A DELAY AND NO EXTENSIONS TO THE CONTRACT TIME OR INCREASE IN THE CONTRACT SUM WILL BE CONSIDERED OR GRANTED AS A RESULT OF THIS PROCESS. Pending the approval described above, the Contractor will proceed with the work under a pending Amendment only if directed in writing by the Owner.

ARTICLE 8 - CONTRACT TIME

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8.1 DEFINITIONS

(a) Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

(b) The date of commencement of the Work is the date established in the Notice to Proceed from the Owner. The date of commencement shall not be postponed by the failure of the Prime Contractor, or of persons or entities for whom the Prime Contractor is responsible to act promptly to commence the Work. If the Owner unreasonably delays the issuance of the notice to proceed, through no fault of the Prime Contractor, the Prime Contractor shall be entitled only to an equitable extension of the Contract Time; the Contract Sum shall remain unchanged.

(c) The date of Substantial Completion is the date certified by the Architect/Engineer in accordance with Paragraph 9.7.

(d) The term "day" as used in the Contract Documents shall mean a calendar day, beginning and ending at 12:00 midnight, unless otherwise specifically defined by special provision.

8.2 PROGRESS AND COMPLETION

(a) **Time limits stated in the Contract Documents are of the essence of the Contract**. By executing the Building Construction Services Agreement, the Prime Contractor confirms that the Contract Time is a reasonable period for performing the Work.

(b) The Prime Contractor shall not knowingly, except by agreement with or instruction of the Owner in writing, prematurely commence operations on the Project site or elsewhere prior to the effective date of insurance to be furnished by the Prime Contractor as required by Article 11. The date of commencement of the Work shall not be changed by the effective date of insurance required by Article 11.

8.3 DELAYS AND EXTENSIONS OF TIME

(a) If the Prime Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect/Engineer, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Prime Contractor's control, or by delay authorized by the Owner pending a claim, or by other causes which the Architect/Engineer determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect/Engineer and Owner may determine.

(b) Claims relating to Contract Time and time extensions shall be made in accordance with the applicable provisions of Paragraph 4.3.

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(c) No Damages for Delay. NOTWITHSTANDING ANY OTHER PROVISIONS OF THE CONTRACT DOCUMENTS, INCLUDING THE GENERAL CONDITIONS, NO ADJUSTMENT SHALL BE MADE TO THE CONTRACT SUM AND THE PRIME CONTRACTOR SHALL NOT BE ENTITLED TO CLAIM OR RECEIVE ANY ADDITIONAL COMPENSATION AS A RESULT OF OR ARISING OUT OF ANY DELAY, HINDRANCE, DISRUPTION, FORCE MAJEURE, IMPACT, OR INTERFERENCE, INTENTIONAL OR UNINTENTIONAL, FORESEEN OR UNFORESEEN, WHICH INCREASES THE TIME TO COMPLETE THE WORK, INCLUDING BUT NOT LIMITED TO ANY DELAYS CAUSED IN WHOLE OR IN PART BY THE ACTS, OMISSIONS, FAILURES, NEGLIGENCE, OR FAULT OF THE OWNER, THE ARCHITECT/ENGINEER, OR THE OWNER'S REPRESENTATIVE, AN EXTENSION OF THE CONTRACT TIME UNDER SUBPARAGRAPH 8.3(a) BEING THE PRIME CONTRACTOR'S SOLE REMEDY.

(d) The Owner shall have the right to occupy, without prejudice to the right of either party, any completed or largely completed portions of the structure or Work, notwithstanding the fact that the Contract Time for completing all or a portion of the Work may not have expired. Partial occupancy and use shall not be deemed as an acceptance of the Work taken or used.

(e) The Prime Contractor shall promptly suspend the Work when either the Prime Contractor or the Owner is ordered to do so by a court order from a court having lawful jurisdiction, and the Prime Contractor will not be entitled to additional compensation by virtue of any delays resulting from the court order. The Prime Contractor will also not be liable to the Owner for a delay caused in fact by the Work being suspended by a court order.

(f) The Architect/Engineer, with the consent of the Owner, shall have the authority to suspend the Work, in whole or in part, for such period or periods as the Architect/Engineer deems necessary due to unusual or severe weather conditions as are considered unfavorable for the suitable prosecution of the Work, or due to failure on the part of the Prime Contractor to correct conditions considered unsafe for workmen or the general public. If it should become necessary to stop the Work for an indefinite period, the Prime Contractor shall store all materials in such a manner that they will not obstruct or impede the public unnecessarily or become damaged in any way, and shall take every precaution to prevent damage or deterioration of the Work performed. In cases of suspension of the Work under this Subparagraph, the Prime Contractor shall also provide suitable drainage about the Work and erect temporary structures where necessary. The Prime Contractor shall not suspend the Work in whole or in part without written authority from the Architect/Engineer or the Owner, and shall resume the Work promptly when notified by the Architect/Engineer or the Owner to resume operations.

(g) In the event of a delay that is the responsibility of the Prime Contractor or any of the Subcontractors, for which the Prime Contractor is not entitled to a time extension under the provisions of this Contract, the Owner may direct that the Work be accelerated by means of overtime, additional crews or additional shifts, or resequencing. This acceleration shall be at no cost to the Owner and will continue until the Contract Time is restored. In the event of a delay for which the Prime Contractor is entitled to a time extension, as

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determined by the Architect/Engineer, Owner may similarly direct acceleration and the Prime Contractor agrees to perform same on the basis that the Prime Contractor will be reimbursed only to the extent described in Subparagraph 4.3(i). THE PRIME CONTRACTOR EXPRESSLY WAIVES ANY OTHER COMPENSATION RESULTING FROM ACCELERATION, SUCH AS LOSS OF LABOR PRODUCTIVITY OR EFFICIENCY.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

The Contract Sum is stated in the Building Construction Services Agreement and, including authorized adjustments, is the total amount of compensation payable by the Owner to the Prime Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

Before the first Application for Payment, the Prime Contractor shall submit to the Architect/Engineer a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, when approved by the Architect/Engineer and the Owner, shall be used as a basis for the Prime Contractor's Application for Payment. The schedule of values shall follow the trade division of the Specifications. Prime Contractor's Application for Payment shall be filed on the current version of AIA Form G702 (Application and Certificate for Payment), as approved by the Owner.

9.3 APPLICATIONS FOR PAYMENT

(a) At least ten (10) days before the date established for each progress payment, the Prime Contractor shall submit to the Architect/Engineer an itemized Application for Payment for Work completed in accordance with the schedule of values. The Application shall be notarized, if required, and supported by data substantiating the Prime Contractor’s right to payment as the Owner or Architect/Engineer may require, including but not limited to copies of requisitions from Subcontractors and material suppliers, and reflecting the applicable retainage as required in the Contract Documents. Prime Contractor's Application for Payment shall also provide other supporting documentation as the Owner or the other applicable provisions of the Contract Documents may require.

(b) Applications for Payment may not include requests for payment of amounts the Prime Contractor does not intend to pay to a Subcontractor because of a good faith dispute, unless the Prime Contractor complies with Clause 5.3(b) (2) of these General Conditions and the Prime Contractor’s Payment Bond Surety consents in writing to payment to the Prime Contractor of the funds deemed to be in dispute.

(c) Unless otherwise provided in the Contract Documents, progress payments shall include payment for materials and equipment delivered and suitably stored at the Project site for

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subsequent incorporation into the Work within thirty (30) days after delivery to the Project site. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored away from the Project site at a location agreed upon in writing. Payment for costs incurred in storage of materials or equipment away from the Project site will NOT be made by Owner unless:

(1) the Owner has given prior approval of such off-site storage in writing;
(2) the materials or equipment are stored in a bonded warehouse located in Denton County and identified with the Project for which they are stored, as evidenced by warehouse receipts and appropriate documents of title; and
(3) the materials or equipment stored off-site will be incorporated into the Work within thirty (30) days after delivery. STORAGE IN FACILITIES OF THE MANUFACTURER OR THE PRIME CONTRACTOR WILL NOT BE PERMITTED OR PAID FOR, UNLESS THE OWNER HAS EXPRESSLY GIVEN PRIOR APPROVAL OF SUCH STORAGE IN WRITING.

(d) The Prime Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Prime Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall be free and clear of liens, claims, security interests or encumbrances in favor of the Prime Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

(e) All materials or equipment delivered to the Project site earlier than thirty (30) days prior to an approved schedule for delivery to the Project site shall be classified as an "early delivery." All early delivery materials or equipment must have the express written permission of the Owner to be stored on the Project site. If any unauthorized early delivery occurs, Prime Contractor shall, at Prime Contractor's expense or at the expense of the responsible Subcontractor or Supplier, cause such early delivery to be removed from the Project site and stored off-site until required at the Project site. All costs of labor, transportation and storage will be included as part of the expense. If the Prime Contractor fails or refuses to remove unauthorized early delivery materials, the Owner may cause such materials to be removed at the Prime Contractor's sole expense, and amounts may be withheld from the Prime Contractor's Application for Payment to reimburse the Owner for any costs incurred in removing unauthorized early delivery materials. OWNER WILL NOT BE RESPONSIBLE FOR THE PROTECTION OF OR RISK OF LOSS ON ANY EARLY DELIVERY MATERIALS OR EQUIPMENT, NOR WILL OWNER BE LIABLE FOR ANY PAYMENT FOR THE EARLY DELIVERY MATERIALS OR EQUIPMENT. Any materials or equipment classified as early delivery will not be approved for payment as stored materials prior to thirty (30) days before the incorporation of the materials or equipment into the Work, unless storage and payment at an earlier date is expressly approved in writing by the Owner.

(f) If the Contract Sum is equal to or less than $25,000, and if performance and payment bonds are not furnished by the Contractor, then no payment applied for will be payable under the Contract until the Work has been finally completed and accepted.

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9.4 CERTIFICATES FOR PAYMENT

(a) The Architect/Engineer will, within ten (10) days after receipt of the Prime Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Prime Contractor, for such amount as the Architect/Engineer determines is properly due, or notify the Prime Contractor and Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in:

(a) City of Denton "General Conditions for Building Construction."

(b) Subparagraph 9.5(a). The Certificate for Payment shall be issued on the current version of AIA Form G702 (Application and Certificate for Payment) as approved by the Owner.

(c) The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect/Engineer's knowledge, information and belief, quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial and Final Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to Final Completion and to specific qualifications expressed by the Architect/Engineer. The issuance of a Certificate for Payment will further constitute a representation that the Prime Contractor is entitled to payment in the amount certified, subject to the Owner's approval. The issuance of a Certificate for Payment is not a representation that the Architect/Engineer has:

(1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work;

(2) reviewed construction means, methods, techniques, sequences or procedures;

(3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Prime Contractor's right to payment; or

(4) made examination to ascertain how or for what purpose the Prime Contractor has used money previously paid on account of the Contract Sum.

(d) Whenever the Application for Payment for Work done since the last previous Application for Payment exceeds one hundred dollars ($100.00) in amount, Owner will pay a percentage of the Application, less applicable retainage, to the Prime Contractor within thirty (30) days following Owner's receipt and approval of the Certificate for Payment certified by the Architect/Engineer. The Application may include acceptable nonperishable materials delivered to the Work or stored as provided for in Paragraph 9.3(c) and the payment will be allowed on the net invoice value, less taxes and applicable retainage.

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(e) The City is required to withhold retainage for public works contracts in which the total contract price estimate at the time of execution is more than $400,000; however, this requirement is applied by the City for all public works contracts in excess of $50,000. The retainage will be withheld by the Owner from each progress payment until final completion of the Work by the Contractor, approval of final completion by the Architect/Engineer, and final acceptance of the Work by the Owner. Unless otherwise required by state law, the retainage percentage as specified in Exhibit A is based upon the original Contract Sum, and will not be affected in the event the original Contract Sum is subsequently increased by Change Order.

(f) No progress payments shall be made on contracts where performance and payment bonds are not required or furnished. In such instances, payment for the Work performed will be made upon final completion and acceptance by the Owner of all Work.

9.5 DECISIONS TO WITHHOLD CERTIFICATION

(a) The Architect/Engineer or the Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner's interest, if in the Architect/Engineer's or Owner's opinion the representations to the Owner required by Subparagraph 9.4(b) cannot be made. If the Architect/Engineer or the Owner is unable to certify payment in the amount of the Application, the Architect/Engineer or the Owner will notify the Prime Contractor as provided in Subparagraph 9.4(a). If the Prime Contractor and Architect/Engineer or the Owner cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make the required representations to the Owner. The Architect/Engineer or the Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary, in the Architect/Engineer's or Owner's opinion, to protect the Owner from loss because of:

(1) defective or nonconforming Work not remedied;

(2) third-party claims filed or reasonable evidence indicating probable filing of such claims;

(3) failure of the Prime Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;

(4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

(5) damage to the Owner or another contractor;

(6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;

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(7) persistent failure to carry out the Work in accordance with the Contract Documents; or

(8) mathematical or other errors that are discovered in the Application for Payment.

(b) When all of the above reasons that existed for withholding certification are removed or remedied, then, at that time, certification will be made for amounts previously withheld.

(c) The Owner may, at its option, offset any progress payment or final payment under the Contract Documents against any debt (including taxes) lawfully due to the Owner from the Prime Contractor, regardless of whether the amount due arises pursuant to the terms of the Contract Documents or otherwise, and regardless of whether or not the debt due to the Owner has been reduced to judgment by a court.

9.6 PROGRESS PAYMENTS

(a) After the Architect/Engineer has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect/Engineer. The Owner shall not be liable for interest on any late or delayed progress payment or final payment caused by any claim or dispute, any discrepancy in quantities, any failure to provide supporting documentation or other information required with the Application for Payment or as a precondition to payment under the Contract Documents, or due to any payment the Owner or the Architect/Engineer has a right to withhold or not certify under the Contract Documents. Notwithstanding the foregoing, the Owner may refuse to make payment on any Certificate for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in Subparagraph 9.5(a), Clauses (1) through (7). The Owner shall not be deemed in default by reason of withholding payment while any Prime Contractor default remains uncured.

(b) The Prime Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Prime Contractor on account of each Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Prime Contractor on account of such Subcontractors portion of the Work. The Prime Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner.

(c) The Architect/Engineer will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Prime Contractor and action taken thereon by the Architect/Engineer and the Owner on account of portions of the Work done by such Subcontractor.

(d) Neither the Owner nor the Architect/Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law. That obligation belongs to the Prime Contractor or, in the event of the Prime Contractor's failure to pay a Subcontractor, to the Surety on the Payment Bond as required under Paragraph 11.3.

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(e) Payment to material suppliers shall be treated in a manner similar to that provided in Subparagraphs 9.6(b), (c), and (d).

(f) A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not performed in accordance with the Contract Documents.

9.7 SUBSTANTIAL COMPLETION

(a) The Date of Substantial Completion of the Work, or designated portion of the Work, is the date certified by the Architect/Engineer when construction is sufficiently completed in accordance with the City Of Denton General Conditions For Building Construction.

(a) the Contract Documents such that the Owner may beneficially occupy and use the Work, or designated portions of the Work, for the purposes for which it is intended and only trivial and insignificant items remain which do not affect the Work as a whole.

(b) When the Prime Contractor considers that the Work, or the portion of the Work which the Owner agrees to accept separately, is Substantially Complete, the Prime Contractor shall prepare and submit to the Architect/Engineer a comprehensive list of remaining items to be completed or corrected. The Prime Contractor shall proceed promptly to complete and correct items on the list (hereinafter called the "punch list"). Failure to include an item on the punch list does not alter the responsibility of the Prime Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the punch list, the Architect/Engineer will make an inspection to determine whether the Work, or designated portion of the Work, is Substantially Complete. If the Architect/Engineer's inspection discloses any item, whether or not included on the punch list, which is not in accordance with the requirements of the Contract Documents and which renders the Work inspected not Substantially Complete the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct the item upon notification by the Architect/Engineer. The Prime Contractor shall then submit a request for another inspection by the Architect/Engineer to determine Substantial Completion. When the Work or designated portion of the Work is Substantially Complete, the Architect/Engineer will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and the Prime Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Prime Contractor shall finish all items on the punch list accompanying the Certificate.

(c) The Certificate of Substantial Completion shall be submitted to the Owner and the Prime Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

(d) Upon Substantial Completion of the Work or designated portion thereof and upon application by the Prime Contractor and certification by the Architect/Engineer, the Owner

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shall make payment, reflecting adjustment in retainage, if any, for the Work, or portion of the Work, as provided in the Contract Documents.

9.8 PARTIAL OCCUPANCY OR USE

(a) The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate Supplemental Agreement with the Prime Contractor, provided such occupancy or use is consented to by the insurer as required under Subparagraph 11.2(e) and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Prime Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Prime Contractor considers a portion Substantially Complete, the Prime Contractor shall prepare and submit a list to the Architect/Engineer as provided under Subparagraph 9.7(b). Consent of the Prime Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Prime Contractor or, if no agreement is reached, by decision of the Architect/Engineer.

(b) Immediately prior to such partial occupancy or use, the Owner, Prime Contractor, and Architect/Engineer shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

(c) Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

(a) Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect/Engineer, accompanied by the Owner’s representative, will promptly make final inspection and, when the Architect/Engineer finds the Work acceptable under the Contract Documents and the Contract Documents fully performed, the Architect/Engineer will promptly issue a final Certificate for Payment stating that to the best of the Architect/Engineer’s knowledge, information and belief, and on the basis of the Architect/Engineer’s observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Prime Contractor and noted in said final Certificate is due and payable. The Architect/Engineer’s final Certificate for Payment will constitute a further representation that conditions listed in Subparagraph 9.9(b) as a condition precedent to the Prime Contractor’s being entitled to final payment have been fulfilled. Owner will normally make final payment within thirty (30) days after Owner's receipt and approval of the final Certificate for Payment. Warranties required by

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the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise provided by separate agreement between the Owner and the Prime Contractor.

(b) Neither final payment nor any remaining retained percentage shall become due until the Prime Contractor submits to the Architect/Engineer:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
(2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
(3) a written statement that the Prime Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
(4) a consent of surety to final payment; and
(5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

(c) As a precondition to final payment by the Owner under this Contract, the Prime Contractor's affidavit under Clause (b)(1) shall state that the Prime Contractor has paid each of his subcontractors, laborers or materialmen in full for all labor and materials provided to Contractor for the Work performed under this Contract. In the event the Prime Contractor has not paid each of his subcontractors, laborers or materialmen in full, the Prime Contractor shall state in the affidavit the amount owed and the name of each subcontractor, laborer or materialmen to whom such payment is owed. IN ANY EVENT, THE PRIME CONTRACTOR SHALL BE REQUIRED TO EXECUTE THE OWNER'S STANDARD AFFIDAVIT OF FINAL PAYMENT AND RELEASE AS A PRECONDITION TO RECEIPT OF FINAL PAYMENT.

(d) If, after Substantial Completion of the Work, final completion of the Work is materially delayed through no fault of the Prime Contractor or by issuance of Change Orders affecting final completion and the Architect/Engineer confirms the delay, the Owner shall, upon application by the Prime Contractor and certification by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect/Engineer prior to certification of payment. Payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

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(e) The acceptance by the Prime Contractor of the final payment shall operate as and shall be a complete release of the Owner from all claims or liabilities under the Contract, for anything done or furnished or relating to the Work or the Project, or for any act or neglect of the Owner relating to or connected with the Work or the Project.

ARTICLE 10 SAFETY, SECURITY AND UTILITY PROVISIONS; ENVIRONMENTAL COMPLIANCE

10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Prime Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract, and will comply with all applicable City, County, State and Federal health and safety regulations.

10.2 SAFETY OF PERSONS AND PROPERTY

(a) The Prime Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

(1) employees on the Work and other persons who may be affected thereby;

(2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Prime Contractor or the Prime Contractor's Subcontractors or Sub-subcontractors; and

(3) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

(b) The Prime Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

(c) The Prime Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

(d) When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Prime Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

(e) USE OF EXPLOSIVES - CLAIMS AND TOTAL INDEMNIFICATION. The Owner shall have the right to pre-approve the use of any explosives on the Project; the Prime Contractor shall not assume in its bid that permission to use explosives will be granted. The Owner shall NOT be liable for any claim for additional time or compensation as a

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result of the Owner's denial of permission to use explosives. Where use of explosives is permitted by the Owner, the Prime Contractor EXPRESSLY AGREES TO BE SOLELY RESPONSIBLE for the determination as to whether explosives shall actually be used, and for any result from the use, handling or storage of explosives, and shall INDEMNIFY, DEFEND AND HOLD COMPLETELY HARMLESS the Owner, its officers, agents and employees, and the Architect/Engineer against any and all claims, lawsuits, judgments, costs or expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, as the result of the use, handling or storage of the explosives by the Prime Contractor or any Subcontractor, REGARDLESS OF WHETHER SAID USE, HANDLING OR STORAGE WAS NEGLIGENT OR NOT, AND REGARDLESS OF WHETHER THE DAMAGE OR INJURY WAS CONTRIBUTED TO IN ANY WAY BY THE NEGLIGENCE OR FAULT OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES, OR THE ARCHITECT/ENGINEER AND ITS OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES. In the event of conflict with any other indemnity paragraph in this Contract, this paragraph controls. This indemnity paragraph is intended solely for the benefit of the parties to this Contract and is not intended to create or grant any rights, contractual or otherwise, to or for any other person or entity. The Prime Contractor shall furnish the Owner and the Architect/Engineer with evidence of insurance sufficient to cover possible damage or injury, which insurance shall either include the Owner and the Architect/Engineer as additional insureds or be sufficiently broad in coverage as to fully protect the Owner and the Architect/Engineer. All explosives shall be stored in a safe and secure manner, under the care of a competent watchman at all times, and all storage places shall be marked clearly and conspicuously: "DANGEROUS-EXPLOSIVES." The method of storing and handling explosives and highly flammable materials shall conform to Federal and State laws, City of Denton ordinances, and the City of Denton Fire Department regulations. The Prime Contractor shall notify any telecommunications and public utility company and any private property owners having structures in the proximity of the Project Site of the Prime Contractor's intention to use explosives, and such notice shall be given sufficiently in advance to enable the telecommunications and public utility companies and private property owners to take such steps as they may deem necessary to protect their property from injury. The notice shall not relieve the Prime Contractor of any responsibility for damage resulting from any blasting operations.

(f) The Prime Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Clauses 10.2(a)(2) and 10.2(a)(3) caused in whole or in part by the Prime Contractor, a Subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Prime Contractor is responsible under Clauses 10.2(a)(2) and 10.2(a)(3), except damage or loss attributable to acts or omissions of the Owner or Architect/Engineer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Prime Contractor or any of its Subcontractors. The foregoing obligations of the Prime Contractor are in addition to the Prime Contractor's obligations under Paragraph 3.l9. To the extent that any such damage or loss may be covered by property insurance or other insurance required by the Contract Documents, the Owner and

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the Prime Contractor shall exercise their best efforts to make a claim and obtain recovery from the insurers to provide for the cost, in whole or in part, of the repair work or to provide for reimbursement for such damage or loss.

(g) The Prime Contractor shall designate a responsible member of the Prime Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Prime Contractor's superintendent unless otherwise designated by the Prime Contractor in writing to the Owner and Architect/Engineer.

(h) The Prime Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger its safety.

10.3 EMERGENCIES

In an emergency affecting safety, health, or security of persons or property, the Prime Contractor shall act, at the Prime Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Prime Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

10.4 PUBLIC CONVENIENCE AND SAFETY

(a) The Prime Contractor shall place materials stored about the Work and shall conduct the Work at all times in a manner that causes no greater obstruction to the public than is considered necessary by the Owner. Sidewalks or streets shall not be obstructed, except by special permission of the Owner. The materials excavated and the construction materials or plant used in the performance of the Work shall be placed in a manner that does not endanger the Work or prevent free access to all fire hydrants, water mains and appurtenances, water valves, gas valves, manholes for the telephone, telegraph signal or electric conduits, wastewater mains and appurtenances, and fire alarm or police call boxes in the vicinity.

(b) The Owner reserves the right to remedy any neglect on the part of the Prime Contractor in regard to public convenience and safety which may come to the Owner's attention, after twenty-four (24) hours notice in writing to the Prime Contractor. In case of an emergency, the Owner shall have the right to immediately remedy any neglect without notice. In either case, the cost of any work done by the Owner to remedy the Prime Contractor's neglect shall be deducted from the Contract Sum. The Prime Contractor shall notify the City Traffic Control Department when any street is to be closed or obstructed. The notice shall, in the case of major thoroughfares or street upon which transit lines operate, be forty-eight (48) hours in advance. The Owner reserves the right to postpone or prohibit any closure or obstruction of any streets or thoroughfares to the extent necessary for the safety and benefit of the traveling public. The Prime Contractor shall, when directed by the Architect/Engineer or the Owner, keep any street or streets in condition for unobstructed use by City departments. When the Prime Contractor is required to construct temporary bridges or make other arrangements for crossing over

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ditches or around structures, the Prime Contractor's responsibility for accidents shall include the roadway approaches as well as the crossing structures.

10.5 BARRICADES, LIGHTS AND WATCHMEN

If the Work is carried on or adjacent to any street, alley or public place, the Prime Contractor shall, at the Prime Contractor's own cost and expense, furnish, erect and maintain sufficient barricades, fences, lights and danger signals, shall provide sufficient watchmen, and shall take such other precautionary measures as are necessary for the protection of persons or property and of the Work. All barricades shall be painted in a color that will be visible at night, shall indicate in bold letters thereon the Prime Contractor's name and shall be illuminated by lights from sunset to sunrise. The term "lights," as used in this Paragraph, shall mean flares, flashers, or other illuminated devices. A sufficient number of barricades with adequate markings and directional devices shall also be erected to keep vehicles from being driven on or into any Work under construction. The Prime Contractor will be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect the Work. Whenever evidence is found of such damage, the Architect/Engineer may order the damaged portion immediately removed and replaced by the Prime Contractor at Prime Contractor's cost and expense. The Prime Contractor's responsibility for maintenance of barricades, signs, and lights, and for providing watchmen, shall not cease until the Project has been finally accepted by the Owner.

10.6 PUBLIC UTILITIES AND OTHER PROPERTIES TO BE CHANGED

In case it is necessary to change or move the property of the Owner or of any telecommunications or public utility, such property shall not be removed or interfered with until ordered to do so by the Architect/Engineer. The right is reserved to the owner of any public or private utilities to enter upon the Project site for the purpose of making such changes or repairs of their property that may become necessary during the performance of the Work. The Owner reserves the right of entry upon the Project site for any purpose, including repairing or relaying sewer and water lines and appurtenances, repairing structures, and for making other repairs, changes, or extensions to any of the Owner's property. The Owner's actions shall conform to the Prime Contractor's current and approved schedule for the performance of the Work, provided that proper notification of schedule requirements has been given to the Owner by the Prime Contractor.

10.7 TEMPORARY STORM SEWER AND DRAIN CONNECTIONS

When existing storm sewers or drains have to be taken up or removed, the Prime Contractor shall at his own expense provide and maintain temporary outlets and connections for all public and private storm sewers and drains. The Prime Contractor shall also take care of all storm sewage and drainage which will be received from these storm drains and sewers; for this purpose, the Prime Contractor shall provide and maintain, at the Prime Contractor's own expense, adequate pumping facilities and temporary outlets or diversions. The Prime Contractor shall, at the Prime Contractor's own expense, construct such troughs, pipes, or other structures necessary and shall be prepared at all times to dispose of storm drainage and sewage received from these temporary connections until such time as the permanent

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connections are built and in service. The existing storm sewers and connections shall be kept in service and maintained under the Contract, except where specified or ordered to be abandoned by the Architect/Engineer. All storm water and sewage shall be disposed of in a satisfactory manner so that no nuisance is created and that the Work under construction will be adequately protected.

10.8 ARRANGEMENT AND CHARGE FOR WATER FURNISHED BY THE OWNER; ELECTRICITY FOR THE PROJECT

(a) When the Prime Contractor desires to use the Owner's water in connection with the Work, the Prime Contractor shall make complete and satisfactory arrangements with the Denton Water Utilities Department and shall be responsible for the cost of the water the Prime Contractor uses. Where meters are used, the charge will be at the regular established rate; where no meters are used, the charge will be as prescribed by City ordinance, or where no ordinance applies, payment shall be based on estimates made by the Denton Water Utilities Department.

(b) The Prime Contractor shall make complete and satisfactory arrangements for electricity and metered electrical connections with the Owner or with Denton Municipal Electric in the event that separately metered electrical connections are required for the Project. The Prime Contractor shall pay for all electricity used in the performance of the Work through separate metered electrical connections obtained by the Prime Contractor through the City of Denton.

10.9 USE OF FIRE HYDRANTS

The Prime Contractor, Subcontractors, and any other person working on the Project shall not open, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, stop valve, or stop cock, or tap any water main belonging to the Owner, unless duly authorized to do so by the Denton Water Utilities Department in accordance with the Denton City Code.

10.10 ENVIRONMENTAL COMPLIANCE

(a) The Prime Contractor and its Subcontractors are deemed to have made themselves familiar with and at all times shall comply with all applicable federal, state or local laws, rules, regulations, ordinances, and rules of common law now in effect (including any amendments now in effect), relating to the environment, Hazardous Substances or exposure to Hazardous Substances, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. §§ 1801, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A §§ 1201, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. §§ 2601, et seq.; the Clean Air Act, 42 U.S.C.A. §§ 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. §§ 3808, et seq., and any current judicial or administrative interpretation of these laws, rules, regulations,

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ordinances, or rules of common law, including but not limited to any judicial or administrative order, consent decree, or judgment affecting the Project.

(b) In the event the Prime Contractor encounters on the site materials reasonably believed to be a Hazardous Substance that have not been rendered harmless, and removal of such materials is not a part of the scope of Work required under the Contract Documents, the Prime Contractor shall immediately stop Work in the affected area and report in writing the facts of such encounter to the Architect/Engineer and the Owner. Work in the affected area shall not thereafter be resumed except by written order of the Owner unless and until the material is determined not to be a Hazardous Substance or the Hazardous Substance is remediated. The Owner may choose to remediate the Hazardous Substance with a separate contractor or through a Change Order with the Prime Contractor. If the Owner determines that the Hazardous Substance exists in the affected area due to the fault or negligence of the Prime Contractor or any of its Subcontractors, the Prime Contractor shall be responsible for remediating the condition at the sole expense of the Prime Contractor in accordance with the Prime Contractor's APPROVED Spill Remediation Plan. An extension of the Contract Time for any delay in the progress schedule caused as a result of the discovery and remediation of a Hazardous Substance may be granted by the Owner only if all remaining Work on the Project must be suspended and the delay cannot be made up elsewhere in the progress schedule. Any request for an extension of the Contract Time related to the discovery and remediation of a Hazardous Substance is subject to the provisions of Paragraph 4.3 and Article 8.

(c) The Prime Contractor shall be responsible for identification, abatement, cleanup, control, removal, remediation, and disposal of any Hazardous Substance brought into or upon the site by the Prime Contractor or any Subcontractor or Supplier. The Prime Contractor shall obtain any and all permits necessary for the legal and proper handling, transportation, and disposal of the Hazardous Substance and shall, prior to undertaking any abatement, cleanup, control, removal, remediation, and disposal, notify the Owner and the Architect/Engineer so that they may observe the activities; provided, however, that it shall be the Prime Contractor's sole responsibility to comply with all applicable laws, rules, regulations, or ordinances governing the activities.

(d) Spill Prevention Plan. At least seventy-two (72) hours prior to commencing performance of any of the Work at the Project site, the Prime Contractor shall submit to the Owner for review and approval a Spill Prevention and Response Plan (SPRP) meeting the requirements of federal and state law, rules, and regulations. The SPRP shall be specially designed for the Prime Contractor's planned work methods and procedures. The SPRP shall be designed to complement all applicable safety standards, fire prevention regulations, and pollution prevention policies and procedures. The SPRP shall include estimates of the quantity and rate of flow should equipment fail, and detail containment or diversionary structures to prevent spills from leaving the site or migrating into adjacent properties or navigable waters. The SPRP shall include methods of recovery of spilled materials and all applicable twenty-four (24) hour emergency phone numbers, including without limitation that of the Owner's Project Manager or other designated representative. The Prime Contractor shall not commence

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any field work prior to approval of such plan by the Owner. The following additional rules shall apply with respect to spills caused by the Prime Contractor or a Subcontractor:

(1) The Prime Contractor shall immediately report any spill or release at the Project site, whether or not it is associated with this Contract, to the Owner's Project Manager or other designated representative. Thereafter, within two (2) working days after the occurrence of such event, the Prime Contractor shall submit a written report describing such event in a degree of detail reasonably acceptable to the Owner.

(2) The Prime Contractor shall immediately respond in accordance with the SPRP in the event of a spill.

(3) The Prime Contractor shall dispose of spilled materials in accordance with EPA and Texas Commission on Environmental Quality (TCEQ) regulations and any other applicable federal, state, or local laws, rules, or regulations. In connection with such disposals, the Prime Contractor shall use only those transporters and disposal facilities that are approved in advance in writing by the Owner. A copy of all transport manifests for the spilled materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request of the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter. ALL COSTS OF COLLECTION, CONTAINMENT, AND DISPOSAL OF SPILLED MATERIALS SHALL BE THE SOLE RESPONSIBILITY OF THE PRIME CONTRACTOR.

(4) For purposes of this Subparagraph (e), the term "spill" includes any kind of environmental discharge or release.

(e) Clean Air Management Plan. The Prime Contractor shall comply with the Clean Air Management Plan submitted to and approved by the Owner during the contractor selection process. The Owner reserves the right, at the Prime Contractor's sole expense, to require the removal or retrofitting of any equipment used in the course of construction that does not comply with the Plan submitted to and approved by the Owner.

(f) The Prime Contractor shall deposit surplus or waste excavation or other materials removed as part of the Work at a legal disposal site in accordance with all applicable state, federal, and local laws, rules, regulations, and ordinances. The Prime Contractor shall submit to the Owner for review and approval all planned disposal sites or proposed uses for the surplus or waste excavation or other materials prior to removal of any excavation or other material from the Project site. A copy of all transport manifests for surplus or waste excavation or other materials shall be obtained and retained in the Prime Contractor's records for reference purposes, to be provided upon request to the Architect/Engineer, the Owner, or any governmental regulatory agency with jurisdiction over the matter.

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(g) The Prime Contractor is responsible for obtaining all TXPDES Storm Water Permits from TCEQ for construction of the Project under regulations contained in 40 CFR Part 122, as amended, pursuant to the Clean Water Act, 33 U.S.C.A. §§1251 et seq. These regulations require the filing of a notice of intent to obtain and abide by the general storm water permit for construction activities promulgated by EPA, including but not limited to cleaning, grading, and excavation that disturb the applicable amount of total land area. In addition, the Prime Contractor shall comply with all regulations of the Owner relating to storm water and storm water runoff management at the Project site pursuant to Chapter 19, Article IX, Denton City Code, as amended.

(h) The Prime Contractor shall not install any materials in the performance of the Work that contain asbestos or asbestos-related material such as hydrated mineral silicate, including chrysolite, amosite, crocidolite, tremolite, anthophylite or actinolite, whether friable or non-friable.

(i) The Owner reserves the right in its sole option to exercise the following remedies (without waiving the right to pursue the imposition of any civil or criminal fines or penalties that may be imposed under state, federal, or local laws or ordinances), at no additional cost to the Owner and without an extension of the Contract Time, in the event the Prime Contractor fails or refuses after seven (7) days advance written notice from the Owner to comply with the provisions of this Paragraph 10.10, the terms of the SPRP, the terms of the Clean Air Management Plan, any storm water permit or other environmental permit issued in connection with the Work, or any applicable environmental law, rule, regulation, or ordinance:

(1) suspend all or any portion of the Work until the noncompliance is corrected, or until a detailed plan to achieve compliance within a reasonably prompt period of time is prepared by the Prime Contractor and approved by the Owner;

(2) if the Prime Contractor fails to properly address the noncompliance within the time stipulated by the Owner, perform the necessary remediation or correction work and backcharge the Prime Contractor for the cost of the remediation or correction; or

(3) terminate the Contract for cause as provided in Article 13.

ARTICLE 11 INSURANCE AND BONDS

11.1 PRIME CONTRACTOR'S INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.2 PROPERTY INSURANCE

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Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.3 'UMBRELLA' LIABILITY INSURANCE

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.4 POLICY ENDORSEMENTS AND SPECIAL CONDITIONS

Prime Contractors shall refer to the requirements listed within the solicitation document and resulting contract for all City of Denton insurance requirements. Should a conflict arise between the solicitation document and the resulting contract, the requirements set forth in the actual contract shall prevail.

11.5 PERFORMANCE AND PAYMENT BONDS

(a) Subject to the provisions of Subparagraph 11.5(b), the Prime Contractor shall, with the execution and delivery of the Construction Services Agreement, furnish and file with the Owner in the amounts required in this Paragraph, the surety bonds described in Clauses (a)(1) and (a)(2) below, which surety bonds shall be in accordance with the Charter of the City of Denton and the provisions of Chapter 2253, Texas Government Code, as amended; each bond shall be signed by the Prime Contractor, as Principal, and by an established bonding company, as surety, meeting the requirements of Subparagraph 11.5(c) and approved by the Owner. The surety bonds shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign:

(1) Performance Bond. A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any Amendments thereof, for the protection of the Owner. This bond shall also provide for the repair and maintenance of all defects due to faulty materials and workmanship that appear within a period of two (2) years from the date of final completion and acceptance of the improvements by the Owner or lesser or longer periods as may be otherwise designated in the Contract Documents.

(2) Payment Bond. A good and sufficient bond in an amount equal to 100% of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract Documents and any Amendments thereto, and for the use and protection of each claimant.

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(b) If the Contract Sum, including Owner-accepted alternates and allowances, if any, is greater than $50,000, Payment bonds in 100% of the Contract Sum are mandatory and shall be required to be provided by the Contractor. If the Contract Sum is greater than $100,000, a Payment Bond and Performance Bond in 100% of the Contract amount is mandatory.

(c) No surety will be accepted by the Owner who is now in default or delinquent on any bonds or who is a party to any litigation against the Owner. All bonds shall be made and executed on the Owner's standard forms, shall be approved by the Owner, and shall be executed by not less than one corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties, and is otherwise acceptable to the Owner. Each bond shall be executed by the Prime Contractor and the surety, and shall specify that legal venue for enforcement of each bond shall lie exclusively in Denton County, Texas. Each surety shall designate an agent resident in Denton County, Texas to whom any requisite statutory notices may be delivered and on whom service of process may be had in matters arising out of the suretyship.

(d)
Contractor will be required to furnish original performance and payment bonds for 100 percent of the total submission price before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas. The City, at its option, may waive the payment and performance bond requirements for projects of less than $50,000.

Bond forms are attached and shall be returned upon notice of contract award by the City. Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from contract award. This contract is not fully executed until payment and performance bonds are received and accepted by the City. Upon approval, a purchase order will be issued.

(e) The failure of the Contractor to deliver the required statutory bonds and evidence of insurance within fourteen (14) calendar days after the Contract is awarded shall constitute a material breach of the Prime Contractor’s bid proposal and the Owner may rescind the Contract award and collect or retain the proceeds of the bid security. By reason of the uncertainty of the market prices or materials and labor, and it being impracticable and difficult to determine accurately the amount of damages occurring to the Owner by reason of the Prime Contractor's failure to execute and furnish the statutory bonds within fourteen (14) calendar days, the filing of a bid proposal with the accompanying bid security will be considered as an acceptance of this Subparagraph 11.5(e). In the event the Owner should re-advertise for bids, the defaulting Prime Contractor shall not be eligible to bid, and the lowest responsible bid obtained in the re-advertisement shall be the bid referred to in this Paragraph.

ARTICLE 12 DEFECTIVE AND NONCONFORMING WORK

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12.1 UNCOVERING OF WORK

(a) If a portion of the Work is covered contrary to the Architect/Engineer's request or to requirements specifically expressed in the Contract Documents, the Work must, if required in writing by the Architect/Engineer, be uncovered for the Architect/Engineer's observation and be replaced at the Prime Contractor's expense without change in the Contract Time.

(b) If a portion of the Work has been covered which the Architect/Engineer has not specifically requested to observe prior to it being covered, the Architect/Engineer may request to see such Work and it shall be uncovered by the Prime Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If any Work is not in accordance with the Contract Documents, the Prime Contractor shall pay the costs of uncovering, repair, replacement unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

(a) The Prime Contractor shall promptly correct Work rejected by the Architect/Engineer as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Prime Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect/Engineer's services and expenses made necessary thereby.

(b) If any of the Work is found to be defective or nonconforming with the requirements of the Contract Documents, the Prime Contractor shall correct it promptly after receipt of written notice from the Architect/Engineer or the Owner to do so unless the Owner has previously given the Prime Contractor a written acceptance or waiver of the defect or nonconformity. The Prime Contractor's obligation to correct defective or nonconforming Work remains in effect for:

(1) one year after the date of Substantial Completion of the Work or designated portion of the Work;

(2) one year after the date for commencement of warranties established by agreement in connection with partial occupancy under Subparagraph 9.8(a); or

(3) the stipulated duration of any applicable special warranty required by the Contract Documents.

(c) The one-year period described in Clauses (b)(1) and (b)(2) shall be extended with respect to portions of the Work performed, repaired, or corrected after Substantial Completion by the period of time between Substantial Completion and the actual completion of the Work.

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(d) The obligations of the Prime Contractor under this Paragraph 12.2 shall survive final acceptance of the Work and termination of this Contract. The Owner shall give notice to the Prime Contractor promptly after discovery of a defective or nonconforming condition in the Work. The one-year period stated in Clauses (b)(1) and (b)(2) does not limit the ability of the Owner to require the Prime Contractor to correct latent defects or nonconformities in the Work, which defects or nonconformities could not have been discovered through reasonable diligence by the Owner or the Architect/Engineer at the time the Work was performed or at the time of inspection for certification of Substantial Completion or Final Completion. The one year period also does not relieve the Prime Contractor from liability for any defects or deficiencies in the Work that may be discovered after the expiration of the one year correction period.

(e) The Prime Contractor shall remove from the Project site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Prime Contractor nor accepted by the Owner.

(f) If the Prime Contractor fails to correct defective or nonconforming Work within a reasonable time after notice from the Owner or the Architect/Engineer, the Owner may correct it in accordance with Paragraph 2.4. If the Prime Contractor does not proceed with correction of defective or nonconforming Work within a reasonable time fixed by written notice from the Architect/Engineer, the Owner may remove or replace the defective or nonconforming Work and store the salvageable materials or equipment at the Prime Contractor's expense. If the Prime Contractor does not pay costs of removal and storage within ten days after written notice, the Owner may, upon ten (10) additional days written notice, sell the materials and equipment at auction or at private sale and shall account for the proceeds after deducting costs and damages that should have been borne by the Prime Contractor, including compensation for the Architect/Engineer's services and expenses made necessary as a result of the sale. If the proceeds of sale do not cover costs which the Prime Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments due to the Prime Contractor then or thereafter are not sufficient to cover the deficiency, the Prime Contractor shall pay the difference to the Owner.

(g) The Prime Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether the construction is completed or partially completed, that is caused by the Prime Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

(h) Nothing contained in this Paragraph 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Prime Contractor might have under the Contract Documents. Establishment of the one-year time period as described in Subparagraph 12.2(b) relates only to the specific obligation of the Prime Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Prime Contractor's

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liability with respect to the Prime Contractor's obligations other than specifically to correct the Work.

(i) Any Work repaired or replaced pursuant to this Article 12 shall be subject to the provisions of Article 12 to the same extent as Work originally performed or installed.

12.3 ACCEPTANCE OF NONCONFORMING WORK

The Owner may, in the Owner's sole discretion, accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. The adjustment will be accomplished whether or not final payment has been made.

ARTICLE 13 COMPLETION OF THE CONTRACT; TERMINATION; TEMPORARY SUSPENSION

13.1 FINAL COMPLETION OF CONTRACT

The Contract will be considered completed, except as provided in any warranty or maintenance stipulations, bond, or by law, when all the Work has been finally completed, the final inspection is made by the Architect/Engineer, and final acceptance and final payment is made by the Owner.

13.2 WARRANTY FULFILLMENT

Prior to the expiration of the specified warranty period provided for in the Contract Documents, the Architect/Engineer will make a detailed inspection of the Work and will advise the Prime Contractor and the Prime Contractor's Surety of the items that require correction. The Architect/Engineer will make a subsequent inspection and if the corrections have been properly performed, the Architect/Engineer will issue a letter of release on the maintenance stipulations to the Prime Contractor and the Surety. If for any reason the Prime Contractor has not made the required corrections before the expiration of the warranty period, the warranty provisions as provided for in the Contract Documents shall remain in effect until the corrections have been properly performed and a letter of release issued.

13.3 TERMINATION BY THE OWNER FOR CAUSE

(a) Notwithstanding any other provision of these General Conditions, the Work or any portion of the Work may be terminated immediately by the Owner for any good cause after giving seven (7) days advance written notice and opportunity to cure to the Prime Contractor, including but not limited to the following causes:

(1) Failure or refusal of the Prime Contractor to start the Work within ten (10) days after the date of written notice by the Owner to commence the Work.

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(2) A reasonable belief that the progress of the Work being made by the Prime Contractor is insufficient to complete the Work within the specified time.

(3) Failure or refusal of the Prime Contractor to provide sufficient and proper equipment or construction forces to properly execute the Work in a timely manner.

(4) A reasonable belief that the Prime Contractor has abandoned the Work.

(5) A reasonable belief that the Contractor has become insolvent, bankrupt, or otherwise financially unable to carry on the Work.

(6) Failure or refusal on the part of the Contractor to observe any requirements of the Contract Documents or to comply with any written orders given by the Architect/Engineer or the Owner as provided for in the Contract Documents.

(7) Failure or refusal of the Prime Contractor to promptly make good any defects in materials or workmanship, or any defects of any nature, the correction of which has been directed in writing by the Architect/Engineer.

(8) A reasonable belief by the Owner that collusion exists or has occurred for the purpose of illegally procuring the Contract or a Subcontractor, or that a fraud is being perpetrated on the Owner in connection with the construction of Work under the Contract.

(9) Repeated and flagrant violation of safe working procedures.

(10) The filing by the Prime Contractor of litigation against the Owner prior to completion of the Work.

(b) When the Work or any portion of the Work is terminated for any of the causes itemized above or for any other cause except termination for convenience pursuant to Subparagraph 13.3(e), the Prime Contractor shall, as of the date specified by the Owner, discontinue the Work or portion of the Work as the Owner shall designate, whereupon the surety shall, within fifteen (15) days after the written notice of termination for cause has been served upon the Prime Contractor and the surety or its authorized agents, assume the obligations of the Prime Contractor for the Work or that portion of the Work which the Owner has ordered the Prime Contractor to discontinue and may:

(1) perform the Work with forces employed by the surety;

(2) with the written consent of the Owner, tender a replacement contractor to take over and perform the Work, in which event the surety shall be responsible for and pay the amount of any costs required to be incurred for the completion of the Work that are in excess of the amount of funds remaining under the Contract as of the time of the termination; or

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(3) with the written consent of the Owner, tender and pay to the Owner in settlement the amount of money necessary to finish the balance of uncompleted Work under the Contract, correct existing defective or nonconforming Work, and compensate the Owner for any other loss sustained as a result of Prime Contractor's default.

In the event of termination for cause involving Clause (b)(1) or (b)(2), the Surety shall assume the Prime Contractor's place in all respects, and the amount of funds remaining unpaid under the Contract shall be paid by the Owner for all Work performed by the surety or the replacement contractor in accordance with the terms of the Contract Documents, subject to any rights of the Owner to deduct any costs, damages, or actual damages that the Owner may have incurred, including but not limited to additional fees and expenses of the Architect/Engineer and attorneys fees, as a result of such termination.

(c) The balance of the Contract Sum remaining at the time of the Prime Contractor's default and of the termination shall become due and payable to the surety as the Work progresses, subject to all of the terms, covenants, and conditions of the Contract Documents. If the surety does not, within the time specified in Subparagraph 13.3(b), exercise its obligation to assume the obligations of the Contract, or that portion of the Contract which the Owner has ordered the Prime Contractor to discontinue, then the Owner shall have the power to complete the Work by contract or otherwise, as it may deem necessary. The Prime Contractor agrees that the Owner shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, supplies, and property of every kind provided by the Prime Contractor for the purpose of the Work, and to procure other tools, equipment, labor, and materials for the completion of the Work, and to charge to the account of the Prime Contractor the expenses of completion and labor, materials, tools, equipment, and incidental expenses. The expenses incurred by the Owner to complete the Work shall be deducted by the Owner out of the balance of the Contract Sum remaining unpaid to or unearned by the Contractor. The Prime Contractor and the surety shall be liable to the Owner for any costs incurred in excess of the balance of the Contract Sum for the completion and correction of the Work, and for any other costs, damages, expenses (including but not limited to additional fees of the Architect/Engineer and attorney's fees), and damages incurred as a result of the termination.

(d) The Owner shall not be required to obtain the lowest bid for the Work of completing the Contract as described in Subparagraph 13.3(c), but the expenses to be deducted from the Contract Sum shall be the actual cost of such Work. In case the Owner's expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Prime Contractor, then the Owner may pay to the Prime Contractor (or the Surety, in the event of a complete termination for cause) the difference in the cost, provided that the Prime Contractor (or the Surety) shall not be entitled to any claim for damages or for loss of anticipated profits. In case such expenses for completion shall exceed the amount which would have been payable under the Contract if the same had been completed by the Prime Contractor, then the Prime Contractor and his Sureties shall pay the amount of the excess to the Owner on notice from the Owner for excess due. When only a particular part of the Work is being carried on by the Owner by

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contract or otherwise under the provisions of this Subparagraph, the Prime Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of workmen employed and provided by the Owner.

(e) The unconditional right to terminate this Contract for the convenience of the Owner (including but not limited to non-appropriation of funding) is expressly retained by the Owner. In the event of termination for convenience, the Owner shall deliver at least ten (10) days advance written notice of termination for convenience to the Prime Contractor. Upon the Prime Contractor's receipt of such written notice, the Prime Contractor shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work in place. The Prime Contractor shall then be reimbursed by the Owner in accordance with the terms and provisions of the Contract Documents, not to exceed actual labor costs incurred, materials stored at the Project site or away from the Project site as approved by the Owner but not yet paid for, plus actual, reasonable, and documented termination charges, if any, paid by the Prime Contractor in connection with the Work in place which is completed and in conformance with the Contract Documents to the date of termination for convenience. No amount shall ever be due to the Prime Contractor for lost or anticipated profits.

13.4 TEMPORARY SUSPENSION OF THE WORK

(a) The Work or any portion of the Work may be temporarily suspended by the Owner immediately upon written notice to the Prime Contractor for any reason, including but not limited to:
(1) the causes described in Clauses 13.1(a)(1) through (a)(10) above;

(2) where other provisions in the Contract Documents require or permit temporary suspension of the Work;

(3) situations where the Work is threatened by, contributes to, or causes an immediate threat to public health, safety, or security; or

(4) other unforeseen conditions or circumstances.

(b) The Prime Contractor shall immediately resume the temporarily suspended Work when ordered in writing by the Owner to do so. The Owner shall not under any circumstances be liable for any claim of the Prime Contractor arising from a temporary suspension due to a cause described in Clause (a)(1) above; provided, however, that in the case of a temporary suspension for any of the reasons described under Clauses (a)(2) through (a)(4), where the Prime Contractor is not a contributing cause of the suspension under one of those Clauses or where the provision of the Contract Documents in question specifically provides that the suspension is at no cost to the Owner, the Owner will make

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an equitable adjustment for the following items, provided that a claim is properly made by the Prime Contractor under Subparagraph 4.3 of these General Conditions:

(1) an equitable extension of the Contract Time, not to exceed the actual delay caused by the temporary suspension as determined by the Architect/Engineer and the Owner;

(2) an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable costs of properly protecting any Work that is finished or partially finished during the period of the temporary suspension (no profit and overhead shall be allowed on top of these costs); and

(3) if it becomes necessary to move equipment from the Project site and then return it to the Project site when the Work is ordered to be resumed, an equitable adjustment to the Contract Sum for the actual, necessary, and reasonable cost of these moves; provided, however, that no adjustment shall be due if the equipment is moved to another Project site of the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 GOVERNING LAW; COMPLIANCE WITH LAWS AND REGULATIONS

(a) This Contract shall be in all things governed by the laws of the State of Texas without regard to conflict of laws principles.

(b) The Contractor shall, during the performance of the Work, comply with all applicable City codes and ordinances, as amended, and all applicable State and Federal laws, rules and regulations, as amended.

14.2 SUCCESSORS AND ASSIGNS

The Owner and the Prime Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to the promises, covenants, terms, conditions, and obligations contained in the Contract Documents. The Prime Contractor shall not assign, transfer, or convey its interest or rights in the Contract, in part or as a whole, without written consent of the Owner. If the Prime Contractor attempts to make an assignment, transfer, or conveyance without the Owner's written consent, the Contractor shall nevertheless remain legally responsible for all obligations under the Contract Documents. The Owner shall not assign any portion of the Contract Sum due or to become due under this Contract without the written consent of the Prime Contractor, except where assignment is compelled or allowed by court order, the terms of the Contract Documents, or other operation of law.

14.3 WRITTEN NOTICE

Except as otherwise provided in Article 16, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid to the Project Manager or

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Superintendent of either party, or to an officer, partner, or other designated representative of either party. Mailed notices shall be addressed to the parties at an address designated by each party, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

14.4 RIGHTS AND REMEDIES; NO WAIVER OF RIGHTS BY OWNER

(a) The duties and obligations imposed on the Prime Contractor by the Contract Documents and the rights and remedies available to the Owner under the Contract Documents shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or made available by law.

(b) No action or failure to act by the Owner shall constitute a waiver of a right afforded the Owner under the Contract Documents, nor shall any action or failure to act by the Owner constitute approval of or acquiescence in a breach of the Contract by Prime Contractor, except as may be specifically agreed in writing by Change Order or Supplemental Agreement.

14.5 INTEREST

The Owner shall not be liable for interest on any progress or final payment to be made under the Contract Documents, except as may be provided by the applicable provisions of the Prompt Payment Act, Chapter 2251, Texas Government Code, as amended, subject to Paragraph 9.6(a) of these General Conditions.

14.6 OFFICERS OR EMPLOYEES OF THE OWNER NOT TO HAVE FINANCIAL INTEREST IN ANY CONTRACT OF THE OWNER

No officer or employee of the Owner shall have a financial interest, direct or indirect, in any Contract with the Owner, or be financially interested, directly or indirectly, in the sale to the Owner of any land, materials, supplies or services, except on behalf of the Owner as an officer or employee as defined in the City's Ethic Ordinance 18-757 and in the City Charter chapter 2 article XI(Ethics). Any violation of this article shall constitute malfeasance in office, and any officer or employee of Owner guilty thereof shall thereby forfeit his office or position. Any violation of this section, with the knowledge, express or implied, of the person, persons, partnership, company, firm, association or corporation contracting with the Owner shall render the Contract involved voidable by the Owner's City Manager or City Council.

14.7 VENUE

This Contract is deemed to be performed in Denton County, Texas, and if legal action is necessary to enforce this Contract, exclusive venue shall lie in Denton County, Texas.

14.8 INDEPENDENT CONTRACTOR

In performing the Work under this Contract, the relationship between the Owner and the Prime Contractor is that of an independent contractor. The Prime Contractor shall exercise independent judgment in performing the Work and is solely responsible for setting working

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hours, scheduling or prioritizing the Work flow and determining the means and methods of performing the Work, subject only to the requirements of the Contract Documents. No term or provision of this Contract shall be construed as making the Prime Contractor an agent, servant, or employee of the Owner, or making the Prime Contractor or any of the Prime Contractor's employees, agents, or servants eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the Owner provides to its employees.

14.9 NONDISCRIMINATION

As a condition of this Contract, the Prime Contractor covenants that he will take all necessary actions to insure that, in connection with any work under this Contract, the Prime Contractor and its Subcontractors will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex, sexual orientation, or handicap unrelated to job performance, either directly, indirectly or through contractual or other arrangements. The Prime Contractor shall also comply with all applicable requirements of the Americans with Disabilities Act, 42 U.S.C.A. §§12101-12213, as amended. In this regard, the Prime Contractor shall keep, retain and safeguard all records relating to his Contract or Work performed thereunder for a minimum period of three (3) years from final Contract completion, with full access allowed to authorized representatives of the Owner, upon request, for purposes of evaluating compliance with this and other provisions of the Contract.

14.10 GIFTS TO PUBLIC SERVANTS

(a) The Owner may terminate this Contract immediately if the Prime Contractor has offered, conferred, or agreed to confer any benefit on a City of Denton employee or official that the City of Denton employee or official is prohibited by law from accepting.

(b) For purposes of this Article, "benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct or substantial interest, but does not include a contribution or expenditure made and reported in accordance with law.

(c) Notwithstanding any other legal remedies, the Owner may require the Prime Contractor to remove any employee of the Prime Contractor from the Project who has violated the restrictions of this Article or any similar State or Federal law, and obtain reimbursement for any expenditures made to the Prime Contractor as a result of the improper offer, agreement to confer, or conferring of a benefit to a City of Denton employee or official.

ARTICLE 15 RIGHT TO AUDIT CONTRACTOR'S RECORDS

By execution of the Building Construction Services Agreement, the Prime Contractor grants the Owner the right to audit, at the Owner's election, all of the Prime Contractor's records and billings relating to the performance of the Work under the Contract Documents. The Prime Contractor agrees to retain its Project records for a minimum of five (5) years following completion of the Work. The Owner agrees that it will exercise the right to audit only at reasonable hours. City may

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review any and all of the services performed by Prime Contractor under this Contract. Any payment, settlement, satisfaction, or release made or provided during the course of performance of this Contract shall be subject to City's rights as may be disclosed by an audit under this section.

ARTICLE 16 NOTICE OF CONTRACT CLAIM

This Contract is subject to the provisions of the Denton City Code, as amended, relating to requirements for filing a notice of a breach of contract claim against City. Prime Contractor shall comply with the requirements of this ordinance as a precondition of any litigation relating to this Contract, in addition to all other requirements in this Contract related to claims and notice of claims.

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. **Contractor terms and conditions**

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EXHIBIT D
PAYMENT AND PERFORMANCE BOND REQUIREMENTS

Contractor will be required to furnish original performance and payment bonds for $250,000 before work is to commence. The Contractor shall assume all costs in increasing the bond limits if change orders are formally approved. Bonds shall be in accordance with the V.T.C.A Government Code Section 2253.021, as amended, from a surety licensed to do business in the State of Texas.

The contractor shall obtain an independent payment and performance bonds for 100% of the project value for any single project in excess of $250,000. The City, at its option, may waive the payment and performance bond requirements for projects less than $50,000. Bond forms will be provided by the City upon contract award and shall be returned upon notice of contract award by the City.

Bonds should be forwarded to the City of Denton within fourteen (14) calendar days from contract award. This contract is not fully executed until payment and performance bonds are received and accepted by the City.

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EXHIBIT E
INSURANCE REQUIREMENTS AND
WORKERS' COMPENSATION REQUIREMENTS

Upon contract execution, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A or better**.

- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

    - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.

    - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

    - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

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- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. **General Liability Insurance:**

General Liability insurance with combined single limits of not less than **$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.

- Coverage B shall include personal injury.

- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

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- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.

- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] **Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned hired and non-owned autos.

[X] **Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least $100,000 for each accident, $100,000 per each employee, and a $500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees and volunteers for any work performed for the City by the Named Insured. For building or construction projects, the Contractor shall comply with the provisions of Attachment 1 in accordance with §406.096 of the Texas Labor Code and rule 28TAC 110.110 of the Texas Workers' Compensation Commission (TWCC).

[ ] **Owner's and Contractor's Protective Liability Insurance**

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis and the policy shall be issued by the same insurance company that carries the Contractor's liability insurance. Policy limits will be at least **$500,000.00** combined bodily injury and property damage per occurrence with a **$1,000,000.00** aggregate.

[ ] **Fire Damage Legal Liability Insurance**

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Coverage is required if Broad form General Liability is not provided or is unavailable to the contractor or if a contractor leases or rents a portion of a City building. Limits of not less than _____ each occurrence are required.

[ ] **Professional Liability Insurance**

Professional liability insurance with limits not less than **$1,000,000.00** per claim with respect to negligent acts, errors or omissions in connection with professional services is required under this Agreement.

[X] **Builders' Risk Insurance**

Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

[ ] **Environmental Liability Insurance**

Environmental liability insurance for $1,000,000 to cover all hazards contemplated by this contract.

[ ] **Riggers Insurance**

The Contractor shall provide coverage for Rigger's Liability. Said coverage may be provided by a Rigger's Liability endorsement on the existing CGL coverage; through and Installation Floater covering rigging contractors; or through ISO form IH 00 91 12 11, Rigger's Liability Coverage form. Said coverage shall mirror the limits provided by the CGL coverage

[ ] **Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than $_____ each occurrence are required.

[ ] **Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

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ATTACHMENT 1

[X] **Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities**

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any overage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
   1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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2. no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

4. obtain from each other person with whom it contracts, and provide to the contractor:

   a. a certificate of coverage, prior to the other person beginning work on the project; and

   b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that

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materially affects the provision of coverage of any person providing services on the project; and

7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor’s failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

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Exhibit F
Certificate of Interested Parties Electronic Filing

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

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

The contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

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

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EXHIBIT G
CONTRACTORS PROPOSAL

Bid Lines

1	The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.					
2	Product Proposal Pricing (PRICING SHALL INCLUDE ALL COSTS TO DELIVER SERVICES AS SPECIFIED F.O.B DESTINATION): Quantities are estimated					
3	SECTION A - LABOR: STANDARD					
4	Working Foreman	Quantity: 7750	UOM: Per Hr.	Price:	$96.39	Total: $747,022.50
5	Senior Lineman	Quantity: 7750	UOM: Per Hr.	Price:	$91.67	Total: $710,442.50
6	Journeyman Lineman	Quantity: 7750	UOM: Per Hr.	Price:	$88.51	Total: $685,952.50
7	Lineman	Quantity: 7750	UOM: Per Hr.	Price:	$75.58	Total: $585,745.00
8	Apprentice, Step D	Quantity: 4500	UOM: Per Hr.	Price:	$68.03	Total: $306,135.00
9	Apprentice, Step C	Quantity: 4500	UOM: Per Hr.	Price:	$64.25	Total: $289,125.00
10	Apprentice, Step B	Quantity: 4500	UOM: Per Hr.	Price:	$60.47	Total: $272,115.00
11	Apprentice, Step A	Quantity: 4500	UOM: Per Hr.	Price:	$52.91	Total: $238,095.00
12	Equipment Operator	Quantity: 7750	UOM: Per Hr.	Price:	$58.96	Total: $456,940.00
13	Ground man	Quantity: 7750	UOM: Per Hr.	Price:	$49.13	Total: $380,757.50
14	Hand Digging Dirt	Quantity: 150	UOM: Per Hole	Price:	$155.17	Total: $23,275.50

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15	Hand Digging Rock	Quantity: 150	UOM: Per Ft	Price:	$68.44	Total: $10,266.00
16	SECTION B - EQUIPMENT:					
17	The contractor shall furnish without additional cost all non-powered tools and equipment needed to complete Service Order(s) Project(s).					
18	Pickup Truck	Quantity: 7750	UOM: Per Hr.	Price:	$18.25	Total: $141,437.50
19	Service Truck	Quantity: 1000	UOM: Per Hr.	Price:	$24.12	Total: $24,120.00
20	Line Truck	Quantity: 7750	UOM: Per Hr.	Price:	$47.25	Total: $366,187.50
21	Pressure Digger	Quantity: 450	UOM: Per Hr.	Price:	$106.98	Total: $48,141.00
22	Knuckle Boom Truck	Quantity: 500	UOM: Per Hr.	Price:	$42.30	Total: $21,150.00
23	Backyard Machine	Quantity: 1000	UOM: Per Hr.	Price:	$50.25	Total: $50,250.00
24	Pole/Material Trailer	Quantity: 3500	UOM: Per Hr.	Price:	$6.00	Total: $21,000.00
25	Wire Reel & Tensioner Unit	Quantity: 250	UOM: Per Hr.	Price:	$17.84	Total: $4,460.00
26	Bucket Truck (48 ft. - 60 ft. reach)	Quantity: 7500	UOM: Per Hr.	Price:	$40.37	Total: $302,775.00
27	Bucket Truck (65 ft. reach)	Quantity: 1500	UOM: Per Hr.	Price:	$48.22	Total: $72,330.00
28	Backhoe (60 hp)	Quantity: 150	UOM: Per Hr.	Price:	$30.00	Total: $4,500.00
29	Dump Truck	Quantity: 300	UOM: Per Hr.	Price:	$31.22	Total: $9,366.00

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30	Generators (100 kW)	Quantity: 250	UOM: Per Hr.	Price:	$18.00	Total: $4,500.00
31	Hydro-Vac	Quantity: 4500	UOM: Per Hr.	Price:	$45.71	Total: $205,695.00
33	SECTION C - LABOR: OVERTIME					
34	Working Foreman	Quantity: 1	UOM: Per Hr.	Price:	$144.59	Total: $144.59
35	Senior Lineman	Quantity: 1	UOM: Per Hr.	Price:	$137.51	Total: $137.51
36	Journeyman Lineman	Quantity: 1	UOM: Per Hr.	Price:	$132.77	Total: $132.77
37	Lineman	Quantity: 1	UOM: Per Hr.	Price:	$113.37	Total: $113.37
38	Apprentice, Step D	Quantity: 1	UOM: Per Hr.	Price:	$102.05	Total: $102.05
39	Apprentice, Step C	Quantity: 1	UOM: Per Hr.	Price:	$96.38	Total: $96.38
40	Apprentice, Step B	Quantity: 1	UOM: Per Hr.	Price:	$90.71	Total: $90.71
41	Apprentice, Step A	Quantity: 1	UOM: Per Hr.	Price:	$79.37	Total: $79.37
42	Equipment Operator	Quantity: 1	UOM: Per Hr.	Price:	$88.44	Total: $88.44
43	Ground man	Quantity: 1	UOM: Per Hr.	Price:	$73.70	Total: $73.70
44	Hand Digging Dirt	Quantity: 1	UOM: Per Hole	Price:	$195.17	Total: $195.17
45	Hand Digging Rock	Quantity: 1	UOM: Per Ft	Price:	$80.44	Total: $80.44

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Exhibit H

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.** Primoris T&D Services, LLC.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

N/A

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

N/A

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

5 DocuSigned by:

Brian Hay

B1AT705FD034BF...

Signature of vendor doing business with the governmental entity

8/31/2021

Date

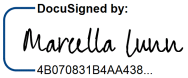
Certificate Of Completion

Envelope Id: 0132902A6BFA4F5A96EEB0F9B51567EA
Status: Completed
Subject: Please DocuSign: City Council Contract 7725 - Overhead Construction Services
Source Envelope:
Document Pages: 83
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
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Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 198.49.140.104

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Status: Original
8/30/2021 9:04:30 AM
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Christa.Christian@cityofdenton.com
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Christa Christian christa.christian@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 8/30/2021 9:10:02 AM Viewed: 8/30/2021 9:10:11 AM Signed: 8/30/2021 9:11:25 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 8/30/2021 9:11:27 AM Viewed: 8/30/2021 9:18:34 AM Signed: 8/30/2021 9:20:21 AM
Marcella Lunn marcella.lunn@cityofdenton.com Catherine Clifton, Interim City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 68.185.202.16 Signed using mobile	Sent: 8/30/2021 9:20:24 AM Viewed: 8/30/2021 10:48:55 AM Signed: 8/30/2021 10:51:23 AM
Brian Hay bhay@prim.com VP - Operations Support Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 8/30/2021 10:52:32 AM ID: a56bac8d-db5b-41fe-b454-ca8bba1f6854	 Signature Adoption: Pre-selected Style Using IP Address: 165.225.33.22	Sent: 8/30/2021 10:51:25 AM Resent: 8/31/2021 1:41:46 PM Resent: 8/31/2021 2:40:48 PM Viewed: 8/31/2021 3:13:02 PM Signed: 8/31/2021 5:04:16 PM

Signer Events	Signature	Timestamp
Antonio Puente Antonio.Puente@cityofdenton.com DME General Manager Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 8/31/2021 5:10:56 PM ID: 2235a339-7bbf-4fc5-90cc-577e3b37d32d	DocuSigned by: Antonio Puente E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 174.197.70.39 Signed using mobile	Sent: 8/31/2021 5:04:19 PM Viewed: 8/31/2021 5:10:56 PM Signed: 8/31/2021 5:11:18 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 8/31/2021 5:11:21 PM Viewed: 9/29/2021 7:52:03 AM Signed: 9/29/2021 7:52:46 AM
Sara Hensley sara.hensley@cityofdenton.com Interim City Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/29/2021 7:52:49 AM Viewed: 9/29/2021 7:57:18 AM Signed: 9/29/2021 7:57:25 AM
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/29/2021 2:08:05 PM ID: a0181879-fdc7-4efb-a505-193da6adcdde	DocuSigned by: Rosa Rios 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/29/2021 7:57:29 AM Viewed: 9/29/2021 2:08:05 PM Signed: 9/29/2021 2:08:52 PM

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 Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/30/2021 9:11:27 AM

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/31/2021 5:11:21 PM Viewed: 9/1/2021 9:22:19 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/29/2021 2:08:55 PM
Brad Watts Bradley.Watts@cityofdenton.com Fleet Services Superintendent Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/29/2021 9:31:38 AM ID: f0dfef8e-953d-493d-8f37-1b9deb6c73cf	COPIED	Sent: 9/29/2021 2:08:56 PM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/30/2021 9:10:02 AM
Certified Delivered	Security Checked	9/29/2021 2:08:05 PM
Signing Complete	Security Checked	9/29/2021 2:08:52 PM
Completed	Security Checked	9/29/2021 2:08:56 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

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 PRIMORIS T&D SERVICES, LLC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON SEPTEMBER 28, 2021, IN THE NOT-TO-EXCEED AMOUNT OF $15,000,000.00; SAID FIRST AMENDMENT TO CONTINUE TO SUPPLY OVERHEAD ELECTRICAL CONSTRUCTION SERVICES FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 7725 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $3,750,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $18,750,000.00).

WHEREAS, on September 28, 2021, City Council awarded a contract to Primoris T&D Services, LLC.in the amount of $15,000,000.00, for overhead electrical construction services for Denton Municipal Electric; and

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

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Primoris T&D Services, LLC., which is on file in the office of the Purchasing Agent, in the amount of Three Million Seven Hundred Fifty Thousand and 0/100 ($3,750,000.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to $18,750,000.00.

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 1AC602DF-5BB1-4D6A-B385-C0067F37CE90

Docusign City Council Transmittal Coversheet

RFP	7725
File Name	Supply of Overhead Electric Line Construction and Maintenance
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

Docusign Envelope ID: 1AC602DF-5BB1-4D6A-B385-C0067F37CE90

THE STATE OF TEXAS §
§
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND PRIMORIS T&D SERVICES, LLC.

THIS FIRST AMENDMENT TO CONTRACT 7725 (this "Amendment") by and between the City of Denton, Texas ("City") and PRIMORIS T&D SERVICES, LLC. ("Contractor") to that certain contract executed on September 28, 2021, in the original not-to-exceed amount of $15,000,000 (the "Agreement"); for services related to the **Supply of Overhead Electric Line Construction and Maintenance.**

WHEREAS, the City deems it necessary to further expand the services provided by Contractor to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount $**3,750,000** with this First Amendment for an aggregate not-to-exceed amount of $**18,750,000**; and

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

WHEREAS, the original not-to-exceed amount may not be increased by more than 25.0% as provided in Texas Local Government Code Sec. 252.048; 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 amount to provide an additional $3,750,000 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of $18,750,000.

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_____.

Docusign Envelope ID: 1AC602DF-5BB1-4D6A-B385-C0067F37CE90

"CONTRACTOR"
PRIMORIS T&D SERVICES, LLC.

By: DocuSigned by: Adam Campbell 920A71BEA5A6449...
AUTHORIZED SIGNATURE, TITLE

"CITY"
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

ATTEST:
LAUREN THODEN, CITY SECRETARY

By: _____

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

Signed by: Antonio Puente, Jr. F3760944C2BF4B5...
SIGNATURE

Antonio Puente, Jr.
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

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.**

Primoris T&D Services, LLC.,

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

5 DocuSigned by:
Adam Campbell
920A71BFA5A6449...
Signature of vendor doing business with the governmental entity

5/15/2025
Date

Docusign Envelope ID: 1AC602DF-5BB1-4D6A-B385-C0067F37CE90

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: 1AC602DF-5BB1-4D6A-B385-C0067F37CE90 Status: Sent

Subject: Please DocuSign: City Council Contract 7725 - OH Construction Services, Amendment 1 - NTE Increase

Source Envelope:

Document Pages: 5 Signatures: 4 Envelope Originator:

Certificate Pages: 6 Initials: 1 Christa Christian

AutoNav: Enabled 901B Texas Street

EnvelopeId Stamping: Enabled Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada) Christa.Christian@cityofdenton.com

IP Address: 10.104.81.137

Record Tracking

Status: Original Holder: Christa Christian Location: DocuSign

4/25/2025 11:07:34 AM Christa.Christian@cityofdenton.com

Signer Events	Signature	Timestamp
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 4/25/2025 11:13:43 AM Viewed: 4/25/2025 11:15:58 AM Signed: 4/25/2025 11:16:06 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/25/2025 11:16:08 AM Viewed: 4/28/2025 4:10:18 PM Signed: 4/28/2025 4:10:39 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/28/2025 4:10:42 PM Viewed: 4/29/2025 9:37:16 AM Signed: 4/29/2025 9:38:48 AM
Adam Campbell ACAMPBELL@PRIM.COM Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/15/2025 1:31:30 PM ID: f90a856d-0267-425e-a9d9-4d75f83ed84c	DocuSigned by: Adam Campbell 920A71BFA5A6449... Signature Adoption: Pre-selected Style Using IP Address: 172.102.62.246	Sent: 4/29/2025 9:38:50 AM Resent: 5/8/2025 8:58:16 AM Resent: 5/8/2025 11:52:51 AM Resent: 5/15/2025 12:07:57 PM Resent: 5/15/2025 3:17:12 PM Viewed: 5/15/2025 3:21:56 PM Signed: 5/15/2025 3:22:25 PM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. Antonio.Puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/15/2025 4:04:53 PM ID: 99e6878f-3a89-4db9-84ce-8c41bf788682	Signed by:  E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 47.184.70.205	Sent: 5/15/2025 3:22:29 PM Viewed: 5/15/2025 4:04:53 PM Signed: 5/15/2025 4:05:14 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/15/2025 4:05:16 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 4/25/2025 11:16:08 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/15/2025 4:05:17 PM Viewed: 5/19/2025 2:59:52 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		
Cody Tenorio Cody.tenorio@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 4/7/2025 7:47:55 AM ID: 61c1d2d3-96b6-490d-82bb-66b260b6b6c7		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/25/2025 11:13:43 AM
Envelope Updated	Security Checked	5/8/2025 11:52:50 AM
Envelope Updated	Security Checked	5/8/2025 11:52:50 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.

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

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

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- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-080, **Version:** 1

AGENDA CAPTION

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 Protective Relay Panels for multiple substations for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8712 - awarded to Schweitzer Engineering Laboratories, Inc., in the not-to-exceed amount of $551,600.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 Protective Relay Panels for multiple substations for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8712 – awarded to Schweitzer Engineering Laboratories, Inc., in the not-to-exceed amount of $551,600.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Denton Municipal Electric (DME) has several projects in its five (5) year Capital Improvement Plan that require the purchase of protective relay panels that house microprocessor-based protective relays, control switches, test switches, and other devices necessary to operate and protect transmission lines, distribution lines, and substation equipment. The projects are as follows:

- **Underwood Substation** – New substation in southwest Denton
- **Denton West Interchange Brazos Tie-in** – Addition to provide facilities to connect two new transmission lines.
- **RD Wells Substation** – New panel for transmission line to the new Underwood Substation.
- **Jim Christal Substation** – Two human monitor interface (HMI) panels for communication in the switchgear buildings
- **Miscellaneous Plates** – Steel plates required for existing panel adaptations.

Protective relays are the “brains” of the protection systems that continuously monitor currents, voltages, and other inputs, and initiate actions, including opening circuit breakers when abnormal conditions are sensed, and perform other protective actions. Relays also provide metering functions, remote terminal unit functions (RTU), and control output functions. Relay panels are fabricated from steel to provide a sturdy framework for mounting protective relays and other equipment required for protection and control inside the substation. Relay panel construction includes installation of wiring, mounting of all hardware, testing, and delivery to Denton Municipal Electric.

The cost for this contract is only for the manufacture and delivery of the relay panels. DME has a separate contract with Schweitzer Engineering Laboratories, Inc. (SEL) for the purchase of the protective relays that are housed in the relay panels. The SEL protective relays are shipped directly from SEL to the panel manufacturer for installation into the relay panels.

The contract estimate is based on the quantities of panels needed for the CIP projects listed below. A 10% contingency was added for any unforeseen design changes.

Project Description	Contract Estimate
Underwood Substation – Qty 19	$390,532
Denton West Interchange – Qty 4	73,879
RD Wells Substation – Qty 1	21,204
Jim Christal Substation – Qty 2	13,860
Miscellaneous plates	1,980
Contingency – 10%	50,145
Total:	**$551,600**

Requests for Proposals were sent to 252 prospective suppliers of this item, including five (5) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Eleven (11) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Best and Final Offers (BAFO) were requested from the top three (3) firms. Based upon this evaluation, Schweitzer Engineering Laboratories, Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	287 - Electronic Equipment, Components, Parts, and Accessories (See Class 730 For Testing Or Analyzing Type)
Notifications sent for Solicitation sent in IonWave:	252
Number of Suppliers that viewed Solicitation in IonWave:	29
HUB-Historically Underutilized Business Invitations sent out:	24
SBE-Small Business Enterprise Invitations sent out:	108
Responses from Solicitation:	11

RECOMMENDATION

Award a contract with Schweitzer Engineering Laboratories, Inc., for the purchase of Protective Relay Panels for multiple substations for Denton Municipal Electric, in a not-to-exceed amount of $551,600.

PRINCIPAL PLACE OF BUSINESS

Schweitzer Engineering Laboratories, Inc.
Pullman, WA

ESTIMATED SCHEDULE OF PROJECT

Delivery of the items will occur 22 weeks after receipt of the order.

FISCAL INFORMATION

These items will be funded from a combination of the accounts listed below.

Underwood Substation	603289500	$199,332
Denton West Brazos Tie-In	605374500	$191,200

Requisition #169657 has been entered into the Purchasing software system in the amount of $390,532. The budgeted amount for this item is $551,600.

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: Mark Zimmerer, 940-349-7169.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8712 - Pricing Evaluation for Supply of Protective Relay Panels for Multiple Substations

				Respondent's Business Name:		Schweitzer Engineering Laboratories, Inc.		Control Panels USA, Inc.		Integrated Power Services		Texas Electric Cooperatives		J.H. Davidson & Associates, LLC		MVA Power		Relay & Power Systems, Inc.		KeasleSalesLLC	
				Principal Place of Business (City and State):		Leonard, TX		Austin, TX		Shreveport, LA		Georgetown, TX		Austin, TX		Montreal, QC		Conshohocken, PZ		McKinney, TX	
Line #	**Description**	**QTY**	**UOM**			**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**
Unit Pricing - PRICING SHALL BE QUOTED TO INCLUDE ALL COSTS, WITH SHIPPING FOB DESTINATION Include Delivery (Weeks ARO)																					
Underwood Substation Relay Panels																					
1	BREAKER UW410 & DIGITAL FAULT RECORDER PANEL	1	EA			**$63,047.00**	**$63,047.00**	$75,730.00	$75,730.00	$77,932.09	$77,932.09	$69,480.00	$69,480.00	$49,759.00	$49,759.00	$86,199.00	$86,199.00	$78,205.97	$78,205.97	$78,432.00	$78,432.00
2	BREAKER UW420 & BUS C DIFFERENTIAL PANEL	1	EA			**$25,495.00**	**$25,495.00**	$22,955.00	$22,955.00	$22,745.96	$22,745.96	$28,090.00	$28,090.00	$28,137.00	$28,137.00	$27,295.00	$27,295.00	$31,296.94	$31,296.94	$35,241.00	$35,241.00
3	BREAKER UW430 PANEL	1	EA			**$16,134.00**	**$16,134.00**	$17,231.00	$17,231.00	$17,510.47	$17,510.47	$17,774.00	$17,774.00	$21,762.00	$21,762.00	$17,459.00	$17,459.00	$20,322.83	$20,322.83	$28,462.00	$28,462.00
4	BREAKER UW440 & BUS B DIFFERENTIAL PANEL	1	EA			**$25,495.00**	**$25,495.00**	$22,989.00	$22,989.00	$22,745.96	$22,745.96	$28,090.00	$28,090.00	$28,137.00	$28,137.00	$27,295.00	$27,295.00	$31,296.94	$31,296.94	$35,241.00	$35,241.00
5	BREAKER UW460 & DENTON WEST LINE DIFFERENTIAL PANEL	1	EA			**$21,833.00**	**$21,833.00**	$21,099.00	$21,099.00	$20,765.12	$20,765.12	$24,056.00	$24,056.00	$25,390.00	$25,390.00	$23,614.00	$23,614.00	$27,404.05	$27,404.05	$31,802.00	$31,802.00
6	BREAKER UW470 & BUS A DIFFERENTIAL PANEL	1	EA			**$25,495.00**	**$25,495.00**	$22,989.00	$22,989.00	$22,745.96	$22,745.96	$28,090.00	$28,090.00	$27,522.00	$27,522.00	$25,925.00	$25,925.00	$31,296.94	$31,296.94	$35,241.00	$35,241.00
7	BREAKER UW480 & R.D. WELLS LINE DIFFERENTIAL PANEL	1	EA			**$21,833.00**	**$21,833.00**	$21,099.00	$21,099.00	$20,765.17	$20,765.17	$24,056.00	$24,056.00	$25,459.00	$25,459.00	$23,614.00	$23,614.00	$28,146.63	$28,146.63	$32,048.00	$32,048.00
8	BREAKER UW210/UW211/UW212 PANEL	1	EA			**$16,947.00**	**$16,947.00**	$16,455.00	$16,455.00	$17,023.17	$17,023.17	$18,671.00	$18,671.00	$22,340.00	$22,340.00	$17,344.00	$17,344.00	$22,441.61	$22,441.61	$20,501.00	$20,501.00
9	BREAKER UW213/UW214/UW215 PANEL	1	EA			**$19,090.00**	**$19,090.00**	$13,575.00	$13,575.00	$17,883.82	$17,883.82	$21,032.00	$21,032.00	$23,273.00	$23,273.00	$18,759.00	$18,759.00	$24,771.29	$24,771.29	$22,094.00	$22,094.00
10	TRANSFORMER T1 METERING PANEL	1	EA			**$12,035.00**	**$12,035.00**	$15,063.00	$15,063.00	$14,575.45	$14,575.45	$13,256.00	$13,256.00	$15,245.00	$15,245.00	$13,583.00	$13,583.00	$14,053.65	$14,053.65	$22,935.00	$22,935.00
11	TRANSFORMER T1 DIFFERENTIAL PANEL	1	EA			**$20,180.00**	**$20,180.00**	$20,583.00	$20,583.00	$18,965.53	$18,965.53	$22,233.00	$22,233.00	$28,070.00	$28,070.00	$21,938.00	$21,938.00	$29,179.28	$29,179.28	$20,322.00	$20,322.00
12	TRANSFORMER T1 DISTRIBUTION DIFFERENTIAL PANEL	1	EA			**$21,485.00**	**$21,485.00**	$22,155.00	$22,155.00	$20,744.69	$20,744.69	$23,674.00	$23,674.00	$25,933.00	$25,933.00	$25,287.00	$25,287.00	$25,812.15	$25,812.15	$21,285.00	$21,285.00
13	BREAKER UW220/UW221/UW222 PANEL	1	EA			**$16,947.00**	**$16,947.00**	$16,455.00	$16,455.00	$17,023.17	$17,023.17	$18,671.00	$18,671.00	$22,364.00	$22,364.00	$17,347.00	$17,347.00	$22,441.61	$22,441.61	$21,385.00	$21,385.00
14	BREAKER UW223/UW224/UW225 PANEL	1	EA			**$19,090.00**	**$19,090.00**	$17,121.00	$17,121.00	$17,883.82	$17,883.82	$21,032.00	$21,032.00	$23,273.00	$23,273.00	$18,754.00	$18,754.00	$24,771.29	$24,771.29	$44,188.00	$44,188.00
15	TRANSFORMER T2 METERING PANEL	1	EA			**$12,035.00**	**$12,035.00**	$10,855.00	$10,855.00	$14,575.45	$14,575.45	$13,256.00	$13,256.00	$15,245.00	$15,245.00	$14,968.00	$14,968.00	$14,053.65	$14,053.65	$22,935.00	$22,935.00
16	TRANSFORMER T2 DIFFERENTIAL PANEL	1	EA			**$20,180.00**	**$20,180.00**	$20,003.00	$20,003.00	$18,965.53	$18,965.53	$22,233.00	$22,233.00	$28,070.00	$28,070.00	$21,938.00	$21,938.00	$29,179.28	$29,179.28	$20,322.00	$20,322.00
17	TRANSFORMER T2 DISTRIBUTION DIFFERENTIAL PANEL	1	EA			**$21,485.00**	**$21,485.00**	$22,198.00	$22,198.00	$20,744.69	$20,744.69	$23,674.00	$23,674.00	$25,933.00	$25,933.00	$25,223.00	$25,223.00	$25,812.15	$25,812.15	$21,717.00	$21,717.00
18	TRANSMISSION HMI PANEL	1	EA			**$5,863.00**	**$5,863.00**	$14,174.00	$14,174.00	$14,270.65	$14,270.65	$7,632.00	$7,632.00	$10,853.00	$10,853.00	$12,168.00	$12,168.00	$10,484.56	$10,484.56	$28,683.00	$28,683.00
19	DISTRIBUTION HMI PANEL	1	EA			**$5,863.00**	**$5,863.00**	$10,684.00	$10,684.00	$14,270.65	$14,270.65	$7,632.00	$7,632.00	$10,853.00	$10,853.00	$12,168.00	$12,168.00	$10,484.56	$10,484.56	$28,672.00	$28,672.00
Denton West Interchange Relay Panels																					
20	BREAKER DW8090 & UNDERWOOD LINE DIFFERENTIAL PANEL	1	EA			**$21,204.00**	**$21,204.00**	$20,974.00	$20,974.00	$19,532.83	$19,532.83	$23,364.00	$23,364.00	$25,996.00	$25,996.00	$21,072.00	$21,072.00	$27,003.90	$27,003.90	$21,565.00	$21,565.00
21	BREAKER DW8120 & PONDER LINE #1 DIFFERENTIAL PANEL	1	EA			**$19,472.00**	**$19,472.00**	$20,698.00	$20,698.00	$19,186.09	$19,186.09	$21,454.00	$21,454.00	$25,899.00	$25,899.00	$20,710.00	$20,710.00	$26,306.17	$26,306.17	$21,363.00	$21,363.00
22	BREAKER DW8130 PANEL	1	EA			**$13,731.00**	**$13,731.00**	$17,246.00	$17,246.00	$16,905.20	$16,905.20	$15,126.00	$15,126.00	$21,988.00	$21,988.00	$15,635.00	$15,635.00	$18,476.67	$18,476.67	$23,068.00	$23,068.00
23	BREAKER DW8140 & PONDER LINE #2 DIFFERENTIAL PANEL	1	EA			**$19,472.00**	**$19,472.00**	$20,698.00	$20,698.00	$19,186.09	$19,186.09	$21,454.00	$21,454.00	$25,899.00	$25,899.00	$20,709.00	$20,709.00	$26,306.17	$26,306.17	$21,362.00	$21,362.00
RD Wells Substation Relay Panel																					
24	BREAKER R410 & UNDERWOOD LINE DIFFERENTIAL PANEL	1	EA			**$21,204.00**	**$21,204.00**	$20,975.00	$20,975.00	$19,532.83	$19,532.83	$23,364.00	$23,364.00	$26,397.00	$26,397.00	$21,072.00	$21,072.00	$27,003.90	$27,003.90	$21,745.00	$21,745.00
25	Jim Christal Substation Panels																				
26	SWITCHGEAR BUILDING HMI PANEL	2	EA			**$6,930.00**	**$13,860.00**	$8,570.00	$17,140.00	$12,384.53	$24,769.06	$6,454.00	$12,908.00	$8,983.00	$17,966.00	$9,462.34	$18,924.68	$8,288.08	$16,576.16	$6,992.50	$13,985.00
Miscellaneous																					
27	9RU STEEL PANEL PLATE WITH MONITOR AND KVM CUTOUT	4	EA			**$495.00**	**$1,980.00**	$380.00	$1,520.00	$0.01	$0.04	$2,077.00	$8,308.00	$250.00	$1,000.00	$87.50	$350.00	$65.47	$261.88	$0.01	$0.04
			Total:			**$501,455.00**		$522,664.00		$531,249.49		$558,610.00		$602,763.00		$569,350.68		$643,390.23		$694,594.04	

Evaluation

Item #	**Standard Criteria**	**Schweitzer Engineering Laboratories, Inc.**	Control Panels USA, Inc.	Integrated Power Services	Texas Electric Cooperatives	J.H. Davidson & Associates, LLC	MVA Power	Relay & Power Systems, Inc.	KeasleSalesLLC
1	Delivery/Project Schedule- 15%	**9.00**	12.00	12.00	9.00	9.00	6.00	9.00	6.00
2	Compliance with Specifications - 25%	**15.00**	15.00	15.00	15.00	15.00	15.00	15.00	15.00
3	Probable Performance - 10%	**10.00**	8.00	6.00	10.00	8.00	8.00	8.00	10.00
4	Price, Total Cost of Ownership - 50%	**50.00**	48.88	47.2	44.88	41.6	44.04	38.97	36.1
	Total Score:	**84.00**	83.88	80.20	78.88	73.60	73.04	70.97	67.10

Exhibit 2
RFP 8712 - Pricing Evaluation for Supply of Protective Relay Pa

				United Electric Systems Inc		Crown Technical Systems		Equagen Engineers PLLC	
	Respondent's Business Name:								
	Principal Place of Business (City and State):			Allentown, PA		Fontana, CA		Raleigh, NC	
Line #	**Description**	**QTY**	**UOM**	**Unit**	**Extended**	**Unit**	**Extended**	**Unit**	**Extended**
Unit Pricing - PRICING SHALL BE QUOTED TO INCLUDE ALL COS									
Underwood Substation Relay Panels									
1	BREAKER UW410 & DIGITAL FAULT RECORDER PANEL	1	EA	$28,692.00	$28,692.00	$81,979.00	$81,979.00	$93,980.00	$93,980.00
2	BREAKER UW420 & BUS C DIFFERENTIAL PANEL	1	EA	$34,231.00	$34,231.00	$30,075.00	$30,075.00	$40,670.00	$40,670.00
3	BREAKER UW430 PANEL	1	EA	$27,681.00	$27,681.00	$24,712.00	$24,712.00	$34,710.00	$34,710.00
4	BREAKER UW440 & BUS B DIFFERENTIAL PANEL	1	EA	$35,523.00	$35,523.00	$30,075.00	$30,075.00	$40,670.00	$40,670.00
5	BREAKER UW460 & DENTON WEST LINE DIFFERENTIAL PANEL	1	EA	$31,595.00	$31,595.00	$27,799.00	$27,799.00	$38,180.00	$38,180.00
6	BREAKER UW470 & BUS A DIFFERENTIAL PANEL	1	EA	$34,359.00	$34,359.00	$30,075.00	$30,075.00	$40,670.00	$40,670.00
7	BREAKER UW480 & R.D. WELLS LINE DIFFERENTIAL PANEL	1	EA	$31,651.00	$31,651.00	$27,799.00	$27,799.00	$38,180.00	$38,180.00
8	BREAKER UW210/UW211/UW212 PANEL	1	EA	$28,483.00	$28,483.00	$22,970.00	$22,970.00	$34,750.00	$34,750.00
9	BREAKER UW213/UW214/UW215 PANEL	1	EA	$31,063.00	$31,063.00	$25,039.00	$25,039.00	$35,830.00	$35,830.00
10	TRANSFORMER T1 METERING PANEL	1	EA	$25,127.00	$25,127.00	$18,342.00	$18,342.00	$31,990.00	$31,990.00
11	TRANSFORMER T1 DIFFERENTIAL PANEL	1	EA	$36,564.00	$36,564.00	$25,810.00	$25,810.00	$41,180.00	$41,180.00
12	TRANSFORMER T1 DISTRIBUTION DIFFERENTIAL PANEL	1	EA	$29,659.00	$29,659.00	$27,573.00	$27,573.00	$38,280.00	$38,280.00
13	BREAKER UW220/UW221/UW222 PANEL	1	EA	$28,483.00	$28,483.00	$22,970.00	$22,970.00	$34,750.00	$34,750.00
14	BREAKER UW223/UW224/UW225 PANEL	1	EA	$30,740.00	$30,740.00	$25,039.00	$25,039.00	$35,830.00	$35,830.00
15	TRANSFORMER T2 METERING PANEL	1	EA	$25,127.00	$25,127.00	$18,342.00	$18,342.00	$31,990.00	$31,990.00
16	TRANSFORMER T2 DIFFERENTIAL PANEL	1	EA	$36,564.00	$36,564.00	$25,810.00	$25,810.00	$41,400.00	$41,400.00
17	TRANSFORMER T2 DISTRIBUTION DIFFERENTIAL PANEL	1	EA	$29,659.00	$29,659.00	$27,573.00	$27,573.00	$38,280.00	$38,280.00
18	TRANSMISSION HMI PANEL	1	EA	$22,114.00	$22,114.00	$17,534.00	$17,534.00	$30,380.00	$30,380.00
19	DISTRIBUTION HMI PANEL	1	EA	$22,114.00	$22,114.00	$17,534.00	$17,534.00	$30,380.00	$30,380.00
Denton West Interchange Relay Panels									
20	BREAKER DW8090 & UNDERWOOD LINE DIFFERENTIAL PANEL	1	EA	$27,595.00	$27,595.00	$26,609.00	$26,609.00	$37,280.00	$37,280.00
21	BREAKER DW8120 & PONDER LINE #1 DIFFERENTIAL PANEL	1	EA	$27,185.00	$27,185.00	$26,949.00	$26,949.00	$36,840.00	$36,840.00
22	BREAKER DW8130 PANEL	1	EA	$22,570.00	$22,570.00	$20,576.00	$20,576.00	$33,590.00	$33,590.00
23	BREAKER DW8140 & PONDER LINE #2 DIFFERENTIAL PANEL	1	EA	$27,184.00	$27,184.00	$26,949.00	$26,949.00	$36,840.00	$36,840.00
RD Wells Substation Relay Panel									
24	BREAKER R410 & UNDERWOOD LINE DIFFERENTIAL PANEL	1	EA	$31,075.00	$31,075.00	$26,609.00	$26,609.00	$37,280.00	$37,280.00
25	Jim Christal Substation Panels								
26	SWITCHGEAR BUILDING HMI PANEL	2	EA	$16,894.00	$33,788.00	$28,976.00	$57,952.00	$28,530.00	$57,060.00
Miscellaneous									
27	9RU STEEL PANEL PLATE WITH MONITOR AND KVM CUTOUT	4	EA	$450.00	$1,800.00	$280.00	$1,120.00	$2,250.00	$9,000.00
			Total:	$740,626.00		$713,814.00		$999,990.00	

Evaluation				
Item #	**Standard Criteria**	United Electric Systems Inc	Crown Technical Systems	Equagen Engineers PLLC
1	Delivery/Project Schedule- 15%	12.00	12.00	12.00
2	Compliance with Specifications - 25%	15.00	15.00	15.00
3	Probable Performance - 10%	6.00	4.00	8.00
4	Price, Total Cost of Ownership - 50%	33.85	35.13	25.07
	Total Score:	66.85	66.13	60.07

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 PROTECTIVE RELAY PANELS FOR MULTIPLE SUBSTATIONS FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8712 – AWARDED TO SCHWEITZER ENGINEERING LABORATORIES, INC., IN THE NOT-TO-EXCEED AMOUNT OF $551,600.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the purchase of Protective Relay Panels for multiple substations for Denton Municipal Electric; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; and

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

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
8712	Schweitzer Engineering Laboratories, Inc.	$551,600.00

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn _____

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Docusign City Council Transmittal Coversheet

RFP	8712
File Name	Protective Relay Panels
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND SCHWEITZER ENGINEERING LABORATORIES, INC.
(Contract # 8712)

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 **RFP 8712 Supply of Protective Relay Panels for Multiple Substations** 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 8712** (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 Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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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.

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

Signed by:
Antonio Puente, Jr. Antonio Puente, Jr.
E3760944C2BF4B5...
SIGNATURE PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

CONTRACTOR
DocuSigned by:
BY: Jeremy Nickels
CCC617E64DC94E9...
AUTHORIZED SIGNATURE

Printed Name: Jeremy Nickels

Title: Vice President of Finance

5093321890
PHONE NUMBER

jeremy_nickels@selinc.com
EMAIL ADDRESS

__2025-_1278504_____
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

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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 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.

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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 $551,600. 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.

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Exhibit B
City of Denton's RFP 8712 File

On File at the Office of the Purchasing Agent

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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.

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6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

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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

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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 (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

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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,

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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

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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 WARRATNIES 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

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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.

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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

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specifications referenced therein.

33. **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.**

34. **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). 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**: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto, if applicable. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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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**

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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-INFRINGING 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-INFRINGING, 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 identity 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

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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 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 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 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.

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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, 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.

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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.

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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

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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.
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

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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

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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 Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas. 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.

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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 material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

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Exhibit D

SOFTWARE LICENSE AGREEMENT

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT") CAREFULLY BEFORE INSTALLING SOFTWARE. SCHWEITZER ENGINEERING LABORATORIES, INC. OR ITS AFFILIATE ("SEL") IS WILLING TO LICENSE SOFTWARE TO YOU AND/OR YOUR COMPANY ("LICENSEE") ONLY ON THE CONDITION THAT LICENSEE ACCEPTS THE TERMS OF THIS AGREEMENT. BY INSTALLING SOFTWARE OR OPENING THE PACKAGE (OR, IF THIS AGREEMENT IS DISPLAYED ELECTRONICALLY, CLICKING "I ACCEPT" OR "I AGREE"), LICENSEE AGREES TO THE TERMS OF THIS AGREEMENT. IF LICENSEE DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL SOFTWARE OR OPEN THE PACKAGE (OR, IF THIS AGREEMENT IS DISPLAYED ELECTRONICALLY, CLICK "NO" OR "CANCEL") AND PROMPTLY RETURN SOFTWARE TO SEL WITHIN TWENTY (20) DAYS OF PURCHASE FOR A FULL REFUND OF ANY LICENSE FEE PAID. THE TERMS OF THIS AGREEMENT SHALL APPLY TO ANY SOFTWARE PROVIDED BY SEL TO LICENSEE, WHETHER OR NOT EMBEDDED IN SEL PRODUCTS.

1. **License to Use**. "Software" means proprietary computer software licensed by SEL, whether or not embedded as firmware in SEL products, and includes all copyright, trade secret, patent and other property rights in and to Software, any upgrades, updates, modifications, enhancements to, and derivative works of Software, any associated media (including without limitation user manuals, training guides, other written documentation, executable files, help files and other files) and any copies of Software. SEL grants to Licensee a perpetual, worldwide, non-exclusive, non-transferable, personal, revocable, and limited license to use the current version of Software. SEL licenses (and not sells) Software to Licensee and no title or ownership interest in Software is transferred to Licensee.
2. **Limitations on Use**. Software is copyrighted and possibly patented and contains proprietary information and trade secrets belonging to SEL or its affiliates and subsidiaries. Licensee shall not modify, decompile, disassemble, decrypt, extract or otherwise reverse-engineer Software, or create derivative works based upon all or part of Software. Licensee shall not sublicense, transfer, loan, rent, lease or assign Software or this Agreement to any other person without the prior written consent of an authorized employee of SEL. Licensee shall not remove or obscure any copyright or other intellectual property notices on Software. Licensee shall not, in whole or in part, disclose Software to any third party nor use Software for any purpose other than its own internal business purposes. Licensee shall take all reasonably appropriate actions, whether by instruction, contract or otherwise, to ensure that Licensee's employees comply with this Agreement. Licensee shall not use Software until Licensee has paid SEL the Software license fee (if applicable) or the product price (which includes the firmware license fee for embedded software). Licensee is not granted a license to any Software upgrade, update, modification, or enhancement offered by SEL, unless i) Licensee acknowledges that use of such upgrade, update, modification, or enhancement is subject to the terms of this Agreement and subsequent amendment(s), and ii) Licensee has paid any applicable Annual Upgrade Subscription License fee. SEL acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Any portions of such material claimed by SEL 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*.
3. **Limitations on Copying**. All copies of Software shall conspicuously display any copyright and other intellectual property notices found on the original Software. Licensee shall not copy written documentation provided with Software. If Licensee holds a Single-Seat License, Software may be installed on only one (1) computer during the term of the license, and Licensee shall not copy Software, except as reasonably necessary to run Software or to interconnect Software with other programs, or for backup purposes. If Licensee holds a Corporate License, Licensee may make a limited number of copies (not to exceed fifty (50) seats) to fulfill its needs within the corporation and for backup purposes.

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4. **Termination**. Licensee's rights to Software shall terminate upon any violation or termination of this Agreement. Licensee's obligations pursuant to this Agreement shall survive any termination of this Agreement. Licensee shall return to SEL any media containing, and delete any electronic copies of, Software immediately upon termination of this Agreement and certify same in writing to SEL.
5. **Warranty**. Software embedded as SEL firmware shall be covered under the SEL Standard Product Warranty for the respective product. Software not embedded as product firmware shall, at the time of delivery, substantially conform to SEL's then-current published specifications for ninety (90) days after delivery. Licensee acknowledges that Software is of such complexity that it may have inherent defects. SEL shall attempt to correct documented errors that SEL's diagnosis indicates are caused by a defect in Software, provided that Licensee notifies SEL of any such defect within ninety (90) days after delivery. SEL does not provide any warranty if Software's nonconformance is a result of Licensee's abuse, improper use, or modification of Software. 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 TITLE AND PATENT INFRINGEMENT, AND IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF SEL FOR DAMAGES ARISING FROM OR IN CONNECTION WITH THE DELIVERY, USE, OR PERFORMANCE OF SOFTWARE. SEL MAKES NO WARRANTY THAT THE OPERATION OF THE SOFTWARE WILL BE ERROR FREE OR WITHOUT INTERRUPTION. SEL shall not be held liable for any damages whatsoever (including without limitation any incidental, direct, indirect, special, consequential, and punitive damages) arising from or in connection with the delivery, use, or performance of Software, even if SEL has been advised of the possibility of such damages. This paragraph sets forth Licensee's sole remedy and SEL's sole liability.
6. **Third Party Software**. Certain SEL products contain software licensed by SEL from one or more third party software licensors, including Microsoft Licensing, Inc. or its affiliates ("Third Party Software"). SEL does not warrant Third Party Software. Third Party Software shall be subject to the standard warranties and terms of use provided by Third Party Software suppliers (copies of which may be obtained from an SEL customer service representative).
7. **U.S. Government Restricted Rights**. Software (including documentation and embedded software) is provided as commercial and restricted computer software. Use, duplication or disclosure by the U.S. Government or any U.S. Government contractor or subcontractor is subject to the restrictions set forth in 48CFR12.212, 48CFR52.227-14, 48CFR52.227-19, or 48CFR227.7202, as applicable.
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

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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.

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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/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 8712 – 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.

Bid Lines

1 Unit Pricing - PRICING SHALL BE QUOTED TO INCLUDE ALL COSTS, WITH SHIPPING FOB DESTINATION Include Delivery (Weeks ARO)
(Line excluded from response total)

Item Notes: Pricing Note:
Costs for Fully Assembled Standard Relay Panels (with wiring verification). The owner will supply SEL protective relays and other SEL devices.

2 Underwood Substation Relay Panels

3 BREAKER UW410 & DIGITAL FAULT RECORDER PANEL

Quantity: 1 UOM: EA Price: $63,047.00 Total: $63,047.00

Item Notes: UW-UW410

Item Attributes

1. Delivery (Weeks ARO)

22

4 BREAKER UW420 & BUS C DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $25,495.00 Total: $25,495.00

Item Notes: UW-UW420

Item Attributes

1. Delivery (Weeks ARO)

22

5 BREAKER UW430 PANEL

Quantity: 1 UOM: EA Price: $16,134.00 Total: $16,134.00

Item Notes: UW-UW430

Item Attributes

1. Delivery (Weeks ARO)

22

6 BREAKER UW440 & BUS B DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $25,495.00 Total: $25,495.00

Item Notes: UW-UW440

Item Attributes

1. Delivery (Weeks ARO)

22

7 BREAKER UW460 & DENTON WEST LINE DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,833.00 Total: $21,833.00

Item Notes: UW-UW460

Item Attributes

1. Delivery (Weeks ARO)

22

8 BREAKER UW470 & BUS A DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $25,495.00 Total: $25,495.00

Item Notes: UW-UW470

Item Attributes

1. Delivery (Weeks ARO)

22

9 BREAKER UW480 & R.D. WELLS LINE DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,833.00 Total: $21,833.00

Item Notes: UW-UW480

Item Attributes

1. Delivery (Weeks ARO)

22

10 BREAKER UW210/UW211/UW212 PANEL

Quantity: 1 UOM: EA Price: $16,947.00 Total: $16,947.00

Item Notes: UW-UW210-211-212

Item Attributes

1. Delivery (Weeks ARO)

22

11 BREAKER UW213/UW214/UW215 PANEL

Quantity: 1 UOM: EA Price: $19,090.00 Total: $19,090.00

Item Notes: UW-UW213-214-215

Item Attributes

1. Delivery (Weeks ARO)

22

12 TRANSFORMER T1 METERING PANEL

Quantity: 1 UOM: EA Price: $12,035.00 Total: $12,035.00

Item Notes: UW-TIM

Item Attributes

1. Delivery (Weeks ARO)

22

13 TRANSFORMER T1 DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $20,180.00 Total: $20,180.00

Item Notes: UW-T1DIFF

Item Attributes

1. Delivery (Weeks ARO)

22

14 TRANSFORMER T1 DISTRIBUTION DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,485.00 Total: $21,485.00

Item Notes: UW-T1 BUS DIFF

Item Attributes

1. Delivery (Weeks ARO)

22

15 BREAKER UW220/UW221/UW222 PANEL

Quantity: 1 UOM: EA Price: $16,947.00 Total: $16,947.00

Item Notes: UW-UW220-221-222

Item Attributes

1. Delivery (Weeks ARO)

22

16 BREAKER UW223/UW224/UW225 PANEL

Quantity: 1 UOM: EA Price: $19,090.00 Total: $19,090.00

Item Notes: UW-UW223-224-225

Item Attributes

1. Delivery (Weeks ARO)

22

17 TRANSFORMER T2 METERING PANEL

Quantity: 1 UOM: EA Price: $12,035.00 Total: $12,035.00

Item Notes: UW-T2M

Item Attributes

1. Delivery (Weeks ARO)

22

18 TRANSFORMER T2 DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $20,180.00 Total: $20,180.00

Item Notes: UW-T2DIFF

Item Attributes

1. Delivery (Weeks ARO)

22

19 TRANSFORMER T2 DISTRIBUTION DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,485.00 Total: $21,485.00

Item Notes: UW-T2 BUS DIFF

Item Attributes

1. Delivery (Weeks ARO)

22

20 TRANSMISSION HMI PANEL

Quantity: 1 UOM: EA Price: $5,863.00 Total: $5,863.00

Item Notes: UW-HMI-T

Item Attributes

1. Delivery (Weeks ARO)

22

21 DISTRIBUTION HMI PANEL

Quantity: 1 UOM: EA Price: $5,863.00 Total: $5,863.00

Item Notes: UW-HMI-D

Item Attributes

1. Delivery (Weeks ARO)

22

22 Denton West Interchange Relay Panels

23 BREAKER DW8090 & UNDERWOOD LINE DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,204.00 Total: $21,204.00

Item Notes: DWWD-8090

Item Attributes

1. Delivery (Weeks ARO)

22

24 BREAKER DW8120 & PONDER LINE #1 DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $19,472.00 Total: $19,472.00

Item Notes: DWWD-8120

Item Attributes

1. Delivery (Weeks ARO)

22

25 BREAKER DW8130 PANEL

Quantity: 1 UOM: EA Price: $13,731.00 Total: $13,731.00

Item Notes: DWWD-8130

Item Attributes

1. Delivery (Weeks ARO)

22

26 BREAKER DW8140 & PONDER LINE #2 DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $19,472.00 Total: $19,472.00

Item Notes: DWWD-8140

Item Attributes

1. Delivery (Weeks ARO)

22

27 RD Wells Substation Relay Panel

28 BREAKER R410 & UNDERWOOD LINE DIFFERENTIAL PANEL

Quantity: 1 UOM: EA Price: $21,204.00 Total: $21,204.00

Item Notes: RDW-R410

Item Attributes

1. Delivery (Weeks ARO)

22

29 Jim Christal Substation Panels

30 SWITCHGEAR BUILDING HMI PANEL

Quantity: 2 UOM: EA Price: $6,930.00 Total: $13,860.00

Item Notes: JC-SWGR-HMI

Item Attributes

1. Delivery (Weeks ARO)

22

31 Miscellaneous

32 9RU STEEL PANEL PLATE WITH MONITOR AND KVM CUTOUT

Quantity: 4 UOM: EA Price: $495.00 Total: $1,980.00

Item Notes: 9RU MONITOR PLATE

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Item Attributes

1. Delivery (Weeks ARO)

22

Response Total: $501,455.00

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 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:
Jeremy Nickels
CCC617F64DC945E9...
Signature of vendor doing business with the governmental entity

5/6/2025
Date

Docusign Envelope ID: BE3AB51D-EB56-4F8D-9F23-E9B21A76E98C

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.

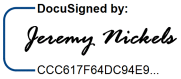
Certificate Of Completion

Envelope Id: BE3AB51D-EB56-4F8D-9F23-E9B21A76E98C
Status: Sent
Subject: Please DocuSign: City Council Contract 8712 Protective Relay Panels
Source Envelope:
Document Pages: 39
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 10.104.81.9

Record Tracking

Status: Original
5/1/2025 1:53:06 PM
Holder: Christa Christian
Christa.Christian@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 5/1/2025 2:10:41 PM Viewed: 5/1/2025 2:10:52 PM Signed: 5/1/2025 2:11:17 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/1/2025 2:11:19 PM Viewed: 5/1/2025 3:20:28 PM Signed: 5/1/2025 3:21:25 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/1/2025 3:21:29 PM Viewed: 5/2/2025 11:00:52 AM Signed: 5/2/2025 11:05:04 AM
Jeremy Nickels jeremy_nickels@selinc.com Vice President of Finance Schweitzer Engineering Laboratories, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 6:09:26 PM ID: 99c99a2c-c70b-424b-b003-fd40fb9b41fc	DocuSigned by:  CCC617F64DC94E9... Signature Adoption: Pre-selected Style Using IP Address: 136.226.54.193	Sent: 5/6/2025 5:47:57 PM Viewed: 5/6/2025 6:09:26 PM Signed: 5/6/2025 6:10:03 PM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. Antonio.Puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 6:13:51 PM ID: d21f81b4-2e73-457b-9686-df4aba8f0e43	Signed by:  E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/6/2025 6:10:07 PM Viewed: 5/6/2025 6:13:51 PM Signed: 5/6/2025 6:14:10 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/6/2025 6:14:14 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 5/1/2025 2:11:20 PM
Demetrius Hunter demetrius_hunter@selinc.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/2/2025 11:50:46 AM ID: 9458c33b-dc33-420f-8c58-b2c8c00540c0	COPIED	Sent: 5/6/2025 5:48:01 PM

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 5/6/2025 6:14:14 PM Viewed: 5/7/2025 10:51:30 AM
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: 4/17/2025 1:27:39 PM ID: 17966fab-4955-479a-88cf-cf3d29ea7524		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/1/2025 2:10:41 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

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

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

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-081, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive statements of qualifications under RFQ 8723 for the General Management Survey of Utilities for the Water Utilities Department; and providing an effective date (RFQ 8723).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive statements of qualifications under RFQ 8723 for the General Management Survey of Utilities for the Water Utilities Department; and providing an effective date (RFQ 8723).

INFORMATION/BACKGROUND

Section 12.08(f) of the City of Denton Charter requires a General Management Survey of all city utilities at least once every ten years. The last Utility Management Study was conducted in 2018–2019, meaning the next study must be completed by 2028 to remain in compliance. Staff began the required process in December 2024 by issuing a Request for Qualifications (RFQ) and subsequently began evaluating consultant submissions. However, due to current operational priorities, staffing limitations, and the need to better align the study with future budget planning, staff recommends delaying the full execution of the Utility Management Study until Fiscal Year 2026–2027. This timeline remains well within the Charter's ten-year requirement and will support a more effective, coordinated, and high-quality study without impacting ongoing utility operations or strategic initiatives.

In accordance with the Local Government Code 252.043, the City Council may reject any and all bids.

RECOMMENDATION

Staff recommends rejection of all responses for 8723 for the General Management Survey of Utilities for the Water Utilities Department.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Stephen D. Gay, 940-349-8086.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, REJECTING ANY AND ALL COMPETITIVE STATEMENTS OF QUALIFICATIONS UNDER RFQ 8723 FOR THE GENERAL MANAGEMENT SURVEY OF UTILITIES FOR THE WATER UTILITIES DEPARTMENT; AND PROVIDING AN EFFECTIVE DATE (RFQ 8723).

WHEREAS, the City has solicited, received, and tabulated competitive proposals for professional services for the General Management Survey of Utilities for the Water Utilities Department (RFQ 8723) in accordance with the procedures of state laws and city ordinances; and

WHEREAS, 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. The following 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 (for the General Management Survey of Utilities for the Water Utilities Department) are hereby rejected:

SECTION 2. The City Manager is hereby authorized to execute all necessary documents for the rejection of said proposals.

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 RFQ 8723 to the City Manager of the City of Denton, 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Marcella Lunn
BY: _____

File #: PUB25-082, **Version:** 1

AGENDA CAPTION

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 FCX Performance, Inc. dba Instrumentation Services, for predictive maintenance testing services for the treatment plants and lift stations for the Water Production and Water Reclamation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8754 - awarded to FCX Performance, Inc. dba Instrumentation Services, 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 $200,000.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 FCX Performance, Inc. dba Instrumentation Services, for predictive maintenance testing services for the treatment plants and lift stations for the Water Production and Water Reclamation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8754 – awarded to FCX Performance, Inc. dba Instrumentation Services, 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 $200,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Water Production and Water Reclamation Departments rely on high-speed pumps and equipment that are critical to their respective operations. Early detection of potential issues is crucial to minimizing costly repairs and ensuring reliable service delivery.

The Water Reclamation Department has successfully implemented a predictive maintenance program since 1997. This program utilizes advanced techniques such as Vibration Analysis, Oil Analysis, and Thermal Imaging to proactively assess the condition of critical equipment, including wastewater pumps, electrical gear, and aeration blowers.

A specialized contractor conducts on-site assessments using cutting-edge equipment and provides user-friendly reports. These reports enable timely corrective action, extending the service life of these valuable assets and significantly reducing the risk of unexpected failures and costly emergency repairs.

Years	Estimated 5-year Amount
Year 1	$35,676.00
Year 2	35,676.00
Year 3	35,676.00
Year 4	35,676.00
Year 5	35,676.00
Contingency	21,620.00
TOTAL:	**$200,000.00**

Request for Proposals was sent to 558 prospective suppliers, including 18 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Two (2) proposals were received, references were checked, and proposals were evaluated based upon published criteria including method and work plan, compliance with specifications, probable performance, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, FCX Performance, Inc. dba Instrumentation Services was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	**936** - (Service Only) - Equipment Maintenance & Repair Services for General Equipment & **968** - (Service Only) - Public Works & Related Services
Notifications sent for Solicitation sent in IonWave:	558
Number of Suppliers that viewed Solicitation in IonWave:	47
HUB-Historically Underutilized Business Invitations sent out:	67
SBE-Small Business Enterprise Invitations sent out:	180
Responses from Solicitation:	2

RECOMMENDATION

Award a contract with FCX Performance, Inc. dba Instrumentation Services, for predictive maintenance testing services for the treatment plants and lift stations for the Water Production and Water Reclamation 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 $200,000.

PRINCIPAL PLACE OF BUSINESS

FCX Performance. Inc. dba Instrumentation Services
Charlotte, NC

ESTIMATED SCHEDULE OF PROJECT

This is an initial three (3) year contract with options to extend the contract for two (2) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These services will be funded through the Water Production and Water Reclamation's operating budget account numbers 630100.7879.0001 and 640100.7879.0001. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $200,000. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Pricing Evaluation
Exhibit 3: Ordinance and Contract

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

For information concerning this acquisition, contact: Rusty Willard, 940-349-8601.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8754 - Pricing Evaluation for Predictive Maintenance Services

	Respondent's Business Name:	**FCX Performance DBA Instrumentation Services (ISI)**	The Vibration Guys, LLC
	Principal Place of Business (City and State):	**Columbus, OH**	Pearland, TX
Line #	**Description**	**Unit**	**Unit**
1	Total annual cost Water Reclamation	**$27,706.00**	$247,000.00
2	Total annual cost Water Production	**$7,970.00**	$142,000.00
	TOTAL:	**$35,676.00**	$389,000.00

Evaluation			
Item #	**Scoring Criteria**	**FCX Performance DBA Instrumentation Services (ISI)**	The Vibration Guys, LLC
1	Method and Workplan Approach- 20%	**17.33**	14.67
2	Compliance with Specifications-10%	**9.33**	4.67
3	Probable Performance-20%	**18.67**	5.33
4	Price, Total Cost of Ownership-50%	**50.00**	4.59
	Total Score:	**95.33**	29.26

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FCX PERFORMANCE, INC. DBA INSTRUMENTATION SERVICES, FOR PREDICTIVE MAINTENANCE TESTING SERVICES FOR THE TREATMENT PLANTS AND LIFT STATIONS FOR THE WATER PRODUCTION AND WATER RECLAMATION DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8754– AWARDED TO FCX PERFORMANCE, INC. DBA INSTRUMENTATION SERVICES, 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 $200,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for predictive maintenance testing services for the treatment plants and lift stations for the Water Production and Water Reclamation Department; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; and

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

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
8754	FCX Performance, Inc. dba Instrumentation Services	$200,000.00

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items

and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations, Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal and related documents herein approved and accepted.

SECTION 4. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 93B74B8A-7931-4D65-8FC0-2E4B292699C4

Docusign City Council Transmittal Coversheet

RFP	8754
File Name	Predictive Maintenance for Water Reclamation and Water Production
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

DS

Docusign Envelope ID: 93B74B8A-7931-4D65-8FC0-2E4B292699C4

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND FCX PERFORMANCE, INC. DBA INSTRUMENTATION SERVICES
(Contract #8754)

THIS CONTRACT is made and entered into this date _____, by and between FCX Performance, Inc. DBA Instrumentation Services an Ohio corporation, whose address 10345 B Nations Ford Rd Charlotte, NC 28273, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's RFP #8754 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 8754 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Contractor's Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is

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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.

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

Signed by:
Stephen D Gay
FE04B3B726A49...
SIGNATURE

Stephen D Gay
PRINTED NAME

General Manager
TITLE

Ware Utilities and Street Operations
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

CONTRACTOR

DocuSigned by:
BY: Brian Richter
3E27C4B6A2F4951...
AUTHORIZED SIGNATURE

Printed Name: Brian Richter

Title: Vice President Business Services

614-253-1996
PHONE NUMBER

brichter@fcxperformance.com
EMAIL ADDRESS

2025-1269321
TEXAS ETHICS COMMISSION CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

Docusign Envelope ID: 93B74B8A-7931-4D65-8FC0-2E4B292699C4

Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed $200,000.00. Pricing shall be per Exhibit F attached.

2. The Quantities

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

3. Contract Terms

The contract term will be 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.

6. Scope Clarifications

Service Exceptions:

- As submitted through the City purchasing website, ISI recommends bidding the transformer oil samples for the Water Production scope separately from this RFQ. ISI considers transformer oil samples as out of scope for the purposes of this bid.
- Recommend removing the instrumentation listed at the end of the Water Production equipment matrix in the RFQ. ISI considers the calibration of these instruments as out of scope for the purposes of this bid.

Docusign Envelope ID: 93B74B8A-7931-4D65-8FC0-2E4B292699C4

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.

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6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

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A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA) ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS**: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

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applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

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

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

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

i. delivery of defective or non-conforming deliverables by the Contractor;

ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;

iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;

v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or

vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or

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electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. **RIGHT TO AUDIT**:
A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have

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electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

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without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

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

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the

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U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:
A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

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losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. **DELAYS**:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

C. NOTWITHSTANDING ANYTHING TO THE CONTRARY AND REGARDLESS OF CAUSE, FAULT OR GROUNDS, WHETHER UNDER LAW OR CONTRACT, AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, INDEMNIFICATION OR OTHERWISE: (I) IN NO EVENT SHALL CONTRACTOR BE LIABLE TO THE CITY OR TO ANY THIRD PARTY FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE GOODS OR ASSOCIATED PRODUCTS, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, COST OF DELAYS, OR FOR ANY LIQUIDATED DAMAGES OR PENALITIES, AND ANY CLAIMS OF THE CITY OR OF CUSTOMERS OF THE CITY FOR SUCH DAMAGE;

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AND (II) CONTRACTOR'S TOTAL, CUMULATIVE LIABILITY ON ANY CLAIM FOR LOSS OR DAMAGE ARISING OUT OF OR CONNECTED WITH AN ORDER, PERFORMANCE OF SERVICES OR THE SUPPLY OF ANY GOODS, OR THE SALE, RESALE, OPERATION OR USE OF ANY GOODS OR FOR INDEMNIFICATION SHALL NOT EXCEED THE PRICE ALLOCABLE TO SUCH PRODUCTS OR SERVICES FURNISHED BY CONTRACTOR WHICH GIVE RISE TO THE CLAIM. THIS LIMITATION OF LIABILITY REFLECTS A DELIBERATE AND BARGAINED-FOR ALLOCATION OF RISKS BETWEEN CONTRACTOR AND THE CITY AND CONSTITUTES THE BASIS OF THE PARTIES' BARGAIN, WITHOUT WHICH CONTRACTOR WOULD NOT HAVE AGREED TO PERFORM SERVICES FOR, OR SUPPLY GOODS TO THE CITY.

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

34. **INSURANCE**: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto, if applicable. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.
B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material 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

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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

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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.

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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 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

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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**:

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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:

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

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

57. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

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

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request.
The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined

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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

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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

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

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

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

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. **PROCUREMENT LAWS**: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. **AUTHORITY**: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

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Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

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

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INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.

- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees, and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

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- Name as Additional Insured the City of Denton, its Officials, Agents, Employees, and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

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combined bodily injury (including death) and property damage limits of $2,000,000.00 per occurrence and $4,000,000.00 general aggregate.

B. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE

Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: $500,000.00 Each Accident
Bodily Injury by Disease: $500,000.00 Each Employee
Bodily Injury by Disease: $500,000.00 Policy Limit

NOTES:

a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of $2,000,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

D. Errors & Omissions Insurance to provide coverage against claims for any loss on accounts assigned to the CONTRACTOR due to negligent act, error, or omission on the part of the CONTRACTOR or its employees with minimum limits of $1,000,000 per claim, $2,000,000 annual aggregate. Such insurance shall include coverage for Cyber Liability and Network Risk.

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E. ENVIRONMENTAL IMPAIRMENT/POLLUTION INSURANCE

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 $1,000,000 per occurrence.

SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

Bid Lines

1	Total annual cost Water Reclamation	Annual Total:	$27,706.00	Total:	$27,706.00
2	Total annual cost Water Production	Annual Total:	$7,970.00	Total:	$7,970.00

Response Total: $35,676.00

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Exhibit G- Form CIQ

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

FCX Performance , Inc. DBA Instrumentation Services

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

Brian Richter

Signature of vendor doing business with the governmental entity

3/11/2025

Date

Certificate Of Completion

Envelope Id: 93B74B8A-7931-4D65-8FC0-2E4B292699C4
Status: Sent
Subject: Please DocuSign: City Council Contract 8754 Predictive Maintenance for Water rec and Water Prod
Source Envelope:
Document Pages: 34
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 10.104.81.73

Record Tracking

Status: Original
5/1/2025 5:04:10 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper gabby.leeper@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 5/1/2025 5:10:29 PM Viewed: 5/1/2025 5:10:37 PM Signed: 5/1/2025 5:11:19 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 5/1/2025 5:11:21 PM Viewed: 5/2/2025 7:36:04 AM Signed: 5/2/2025 7:36:39 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/2/2025 7:36:40 AM Viewed: 5/2/2025 10:01:12 AM Signed: 5/2/2025 10:03:29 AM
Brian Richter brichter@fcxperformance.com Vice President Business Services Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/2/2025 10:04:48 AM ID: 33fde2c7-a677-4e8e-bbde-be683ce85be7	DocuSigned by:  2E527B468A2F49E... Signature Adoption: Pre-selected Style Using IP Address: 12.46.184.20	Sent: 5/2/2025 10:03:31 AM Viewed: 5/2/2025 10:04:48 AM Signed: 5/2/2025 4:34:37 PM

Signer Events	Signature	Timestamp
Stephen D Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/3/2025 5:40:54 AM ID: b9b25280-7851-41c9-9e6b-a12d28815eac	Signed by: Stephen D Gay FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 172.58.139.153 Signed using mobile	Sent: 5/2/2025 4:34:39 PM Viewed: 5/3/2025 5:40:54 AM Signed: 5/3/2025 5:48:09 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/3/2025 5:48:12 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 5/1/2025 5:11:21 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/3/2025 5:48:12 AM Viewed: 5/5/2025 8:38:07 AM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Rusty Willard rusty.willard@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/1/2025 5:10:29 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-083, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a contract between the City of Denton and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC, amending the contract approved by City Council on May 7, 2013, in the not-to-exceed amount of $491,813.75; said sixth amendment to continue to provide vendor support of the Denton Municipal Electric (DME) ArcFM solution and associated software modules, along with new hardware and software upgrades; providing for the expenditure of funds therefor; and providing an effective date (RFP 8764 - providing for a five (5) year term and an additional sixth amendment expenditure amount not-to-exceed $357,500.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a contract between the City of Denton and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC, amending the contract approved by City Council on May 7, 2013, in the not-to-exceed amount of $491,813.75; said sixth amendment to continue to provide vendor support of the Denton Municipal Electric (DME) ArcFM solution and associated software modules, along with new hardware and software upgrades; providing for the expenditure of funds therefor; and providing an effective date (RFP 8764 – providing for a five (5) year term and an additional sixth amendment expenditure amount not-to-exceed $357,500.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

DME is currently using ArcFM Suite of products, including but not limited to ArcFM Editor, ArcFM Fiber, Responder OMS, ArcFM Viewer, and we have migrated to the latest version of ArcFM XI suite.

The ArcFM Electric GIS software allows DME the capability to run database queries on the transmission and distribution electric systems infrastructure and fiber communications infrastructure, and create engineering and operations maps. The electric GIS has become a core product for DME and is now used to provide GIS data that assists with financial fixed asset accounting, budget preparations, and presentations requiring governing board approvals, distribution engineering analysis, and outage management tracking and reporting. Over time, there have been other software programs that have had integrations to the Schneider suite of software that require continued maintenance and support.

Project Description	Estimated 5-Year Expenditure
Year 1 -12/1/2026 – 11/30/2027	$65,000
Year 2 -12/1/2027 – 11/30/2028	65,000
Year 3 -12/1/2028– 11/30/2029	65,000
Year 4 -12/1/2029 – 11/30/2030	65,000
Year 5 -12/1/2030 – 11/30/2031	65,000
Contingency	32,500
Total	**$357,500**

Request for Proposals was sent to 567 prospective suppliers, including fifteen (15) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. One (1) proposal was received, and references were checked to ensure the vendor can provide the services requested in the Scope of Work. The department is awarding the contract to Schneider Electric Smart Grid Solutions, LLC.

NIGP Code Used for Solicitation:	920 - (Service Only) - Data Processing, Computer, Programming, and Software Services
Notifications sent for Solicitation sent in IonWave:	567
Number of Suppliers that viewed Solicitation in IonWave:	35
HUB-Historically Underutilized Business Invitations sent out:	88
SBE-Small Business Enterprise Invitations sent out:	219
Responses from Solicitation:	1

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 7, 2013, City Council approved a contract with Telvent USA, LLC, in the not-to-exceed amount of $491,813.75 (Ordinance 2013-118).

On October 18, 2016, City Council approved Amendment 1 with Telvent USA, LLC, in the not-to-exceed amount of $129,401.00 (Ordinance 2016-322).

On August 8, 2018, Purchasing approved Amendment 2 with Telvent USA, LLC, in the not-to-exceed amount of $4,667.00.

On March 3, 2020, City Council approved Amendment 3 with Telvent USA, LLC, in the not-to-exceed amount of $142,000.00 (Ordinance 20-498).

On April 8, 2022, Purchasing executed a Name Change with Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC.

On August 16, 2022, City Council approved Amendment 4 with Schneider Electric Smart Grid Solutions, LLC, in the not-to-exceed amount of $95,000.00 (Ordinance 22-1504).

On June 18, 2024, City Council approved Amendment 5 with Schneider Electric Smart Grid Solutions, LLC, in the not-to-exceed amount of $95,000.00 (Ordinance 24-1198).

RECOMMENDATION

Award Amendment No. 6 with Schneider Electric Smart Grid Solutions, LLC, to continue to provide vendor support of the Denton Municipal Electric (DME) ArcFM solution and associated software modules, along with new hardware and software upgrades, in a five (5) year not-to-exceed amount of $357,500.

PRINCIPAL PLACE OF BUSINESS

Schneider Electric Smart Grid Solutions, LLC
Fort Collins, CO

ESTIMATED SCHEDULE OF PROJECT

This is a five (5) year contract.

FISCAL INFORMATION

These services will be funded from DME TechOps Operating budget account 600750.7899.9210. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $357,500. 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: Original Ordinance, Contract, Ordinances, Amendments, and Name Change
Exhibit 3: Ordinance and Amendment 6

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

For information concerning this acquisition, contact: Jerry Looper, 940-349-7676.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 2013-118

AN ORDINANCE OF THE CITY OF DENTON, TEXAS PROVIDING FOR, AUTHORIZING, AND APPROVING A THREE (3) YEAR EXPENDITURE OF FUNDS FOR THE PURCHASE OF A GEOGRAPHIC INFORMATION/FACILITIES MANAGEMENT SYSTEM (GIS), SOFTWARE PRODUCTS FOR GIS CORE OPERATIONS, ENHANCED WEB-BASED GIS, AND A NEW OUTAGE MANAGEMENT SYSTEM FROM TELVENT USA, LLC, WHICH IS AVAILABLE FROM ONLY ONE SOURCE AND IN ACCORDANCE WITH CHAPTER 252.022 OF THE TEXAS LOCAL GOVERNMENT CODE SUCH PURCHASES ARE EXEMPT FROM THE REQUIREMENTS OF COMPETITIVE BIDDING; AND PROVIDING AN EFFECTIVE DATE (FILE 5225-PURCHASE OF GIS SOFTWARE PRODUCTS, ENHANCED WEB-BASED GIS, AND OUTAGE MANAGEMENT SYSTEM IN THE NOT-TO-EXCEED AMOUNT OF $491,813.75).

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; and need not be submitted to competitive bids; and

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the "File" listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

FILE NUMBER	VENDOR	AMOUNT
5225	Telvent USA, LLC	$491,813.75

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; and 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 is hereby authorized to execute any contracts relating to the items specified in Section 1 and the expenditure of funds pursuant to said contracts is hereby authorized.

SECTION 5. The City Council of the City of Denton, Texas hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under File 5225 to the City Manager of the City of Denton, Texas, or his designee.

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

PASSED AND APPROVED this the 7th day of May, 2013.

MARK A. BURROUGHS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY:

5-ORD-File 5225

File 5225

STATE OF TEXAS §
§
COUNTY OF DENTON §

PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTING SERVICES RE ARCFM SOLUTION UPGRADE

THIS AGREEMENT is made and entered into as of the 7th day of May, 2013, by and between the City of Denton, Texas, a Texas Municipal Corporation, with its principal offices at 215 East McKinney Street, Denton, Texas 76201 (hereinafter "City") and Telvent USA LLC, a limited liability company, with offices at 4701 Royal Vista Circle, Fort Collins, Colorado, 80528 (hereinafter "CONSULTANT"); the parties acting herein, by and through their duly-authorized officers and representatives.

WITNESSETH, that in consideration of the covenants and agreements herein contained, the parties hereto do mutually AGREE as follows:

ARTICLE I
EMPLOYMENT OF CONSULTANT

The CITY hereby contracts with CONSULTANT, as an independent contractor, and the CONSULTANT hereby agrees to perform the services herein in connection with the scope of services as stated in the Articles to follow, with diligence and in accordance with the professional standards customarily obtained for such services in the State of Texas.

ARTICLE II
SCOPE OF SERVICES

The CONSULTANT shall perform the following services in a professional manner:

A. Consultant, an international software engineering firm, shall provide to the City professional and personal consulting services pertaining to CONSULTANT'S Scope of Work entitled "ArcFM Solution Upgrade Services", dated March 27, 2013 which is a thirty-three (33) page document from CONSULTANT to Denton Municipal Electric, which letter is attached hereto as Exhibit "A" and is incorporated herewith by reference.

B. To consult with key personnel within Denton Municipal Electric and the Technology Services Department of the CITY, and any other designated city personnel regarding any and all aspects of the services to be performed pursuant to this Agreement.

ARTICLE III
ADDITIONAL SERVICES

Any additional services to be performed by CONSULTANT, if authorized by the CITY, which are not included in the above-described Scope of Work, CONSULTANT, who shall determine, in writing, the scope of such additional services, the amount of compensation for such additional services, and other essential terms pertaining to the provision of such additional services by CONSULTANT.

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ARTICLE IV
PERIOD OF SERVICE

This Agreement shall become effective upon execution by the CITY and the CONSULTANT and upon the issuance of a notice to proceed by the CITY. The termination date of this Agreement shall be upon the earliest to occur of the following events: completion of the work described here, including additional services, and in the attached Exhibit "A"; or upon the depletion and exhaustion of the $491,813.75 not-to-exceed amount provided for herein; or upon fifteen (15) days written notice to terminate, issued by the City Manager. This Agreement may be sooner terminated in accordance with the provisions hereof. Time is of the essence in this Agreement. The CONSULTANT shall make all reasonable efforts to complete the services set forth herein as expediently as possible and to meet the schedules established by the CITY, acting through its Assistant City Manager of Utilities or his designee.

ARTICLE V
COMPENSATION

A. COMPENSATION TERMS:

Compensation terms are pursuant to the "Service Quote" contained on page 31 of the above Scope of Work. Reference is expressly made to page 30 for the specific figures and the assumptions.

"Direct Non-Labor Expense" is defined as that expense, based upon actual cost, for any out-of-pocket expense reasonably incurred by CONSULTANT in the performance of this Agreement for supplies, long-distance telephone, telecopier, reproduction expense, overnight courier, photocopy expense, transportation, travel, communications, subsistence and lodging away from home and similar incidental expenses reasonably incurred in connection with the Project, All expenses are included in the fixed price Service Quote on page 31 of the Scope of Work.

B. BILLING AND PAYMENT:

For and in consideration of the professional services to be performed by the CONSULTANT herein, the CITY agrees to pay CONSULTANT a total fee, including reimbursement for direct non-labor expenses, of not-to-exceed $491,813.75 for those services described in Exhibit "A" attached hereto.

Payments to CONSULTANT will be made by the CITY on the basis of the milestone payment schedule as detailed on page 31 of the Scope of Work and rendered to the CITY through the General Manager of Denton Municipal Electric ("DME") of designee. The fee bills as submitted, shall be allowed and approved, or shall be disallowed for case, by the General Manager of DME or designees.

Nothing contained in this Article shall require the CITY to pay for any work which is unsatisfactory as reasonably determined by the General Manager of DME Utilities or designee, or which is not submitted in compliance with the terms of this Agreement. The CITY shall not be required to make any payments to the CONSULTANT when the

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CONSULTANT is in default under this Agreement.

It is specifically understood and agreed that the CONSULTANT shall not be authorized to undertake any work pursuant to this Agreement which would require additional payments by the CITY for any charge, expense or reimbursement above the maximum not-to-exceed fee as stated, without first having obtained written authorization from the CITY. CONSULTANT shall not proceed to perform any services to be later provided for under Article III. "Additional Services" without first obtaining prior written authorization from the CITY.

C. ADDITIONAL SERVICES: For additional services authorized in writing by the CITY in Article III hereinabove, CONSULTANT shall be paid based on a to-be-agreed-upon Schedule of Charges. Payments for additional services shall be due and payable upon submission by CONSULTANT, and shall be in accordance with Article V.B. herein. Statements for Basic Services and any Additional Services shall be submitted to CITY no more frequently than once monthly.

D. PAYMENT

If the CITY fails to make payments due to CONSULTANT for services and expenses within thirty (30) days after receipt of the CONSULTANT'S undisputed statement thereof, the amounts due the CONSULTANT will be increased by the rate of statutory Prompt Payment Act interest as provided under Texas law from the said thirtieth (30th) day, and in addition, the CONSULTANT may, after giving ten (10) days' written notice to the CITY, suspend services under this Agreement until the CONSULTANT has been paid in full for all amounts then due and owing for services, expenses and charges provided. However, nothing herein shall require the OWNER to pay the Prompt Payment interest referenced above if the CITY reasonably determines that the work of CONSULTANT is unsatisfactory, in accordance with Article V, Compensation, and the CITY promptly notifies CONSULTANT in writing within twenty-one (21) days of any such defect, specifying the work which it deems to be unsatisfactory..

ARTICLE VI
OBSERVATION AND REVIEW OF THE WORK

A. CONSULTANT will exercise reasonable care and due diligence in discovering and promptly reporting to the CITY any defects or deficiencies in the work of the CONSULTANT or any of its subcontractors or subconsultants.

B. All deliverables submitted to the CITY shall be reviewed and checked within two weeks of delivery. Deliverables are outlined in Exhibit "A" – Scope of Work and include completed work (documents, services, code, etc.) provided to CITY for review. CONSULTANT shall be notified in writing of any pending delays in review periods.

C. All reviews will be performed on the basis of work correctness and compliance with the Agreement. The CITY reserves the right to return for correction within these approximate review periods any and all products that are in error of have not been prepared within the scope of work; unless otherwise notified in writing, these corrections will be incorporated in another work task submittal.

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D. The correction procedures of CONSULTANT shall not affect the overall production schedule. Once final acceptance is given on any deliverable product, any further modifications required of CONSULTANT for that accepted product shall be considered Additional Services per Article III, and shall be billable at appropriate current hourly rates.

E. CITY must exercise due diligence and shall ensure that factors beyond the control of CONSULTANT, such as CITY delays and failure to fulfill CITY responsibilities, shall not interfere with CONSULTANT's ability to complete the services. CITY shall notify CONSULTANT of any such factors that may cause delays in the completion of tasks or changes to the scope of work, and both parties will mutually determine required modifications to this Agreement.

F. At the conclusion of project acceptance, CONSULTANT will request that CITY sign an acceptance certificate. CITY's production use of any given application prior to receipt of an acceptance certificate shall constitute acceptance on the part of the CITY. Production use shall be defined as the use of the application in an environment that includes Client's system of record database.

ARTICLE VII
OWNERSHIP OF DOCUMENTS

All documents, analyses and other data and deliveries prepared by CONSULTANT under this Agreement as described in the Scope of Work ("Work Product") are instruments of service and are and shall remain the property of CONSULTANT. CONSULTANT grants a personal, non-transferable, nonexclusive license to use and copy the Work Products (as defined in Attachment "A" Scope of Work) solely for CITY's internal business purposes. CITY shall include CONSULTANT'S copyright notice and any other legend of ownership on all copies of the Work Product as such notice appears on the originals. CITY shall not make, sell, translate, export, license, sublicense, localize, use with any time-sharing or for service bureau arrangements, or transmit to any person outside of CITY'S internal business organization, the Work Product.

The Work Products shall not be changed or used for purposes other than those set forth in this Agreement without the prior written approval of CONSULTANT. If CITY releases the Work Products to a third party without CONSULTANT prior written consent, or changes or uses he Work Products other than as intended hereunder, CITY does so at its sole risk and discretion and CONSULTANT shall not be liable for any claims or damages resulting from or connected with the release or any third party's use of the Work Products; and CITY shall be considered in breach of this Agreement and CONSULTANT shall have all rights to remedy as provided hereunder.

ARTICLE VIII
INDEPENDENT CONTRACTOR

CONSULTANT shall provide services to CITY as an independent contractor, not as an employee of the CITY. CONSULTANT shall not have or claim any right arising from employee status.

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ARTICLE IX
INDEMNITY AGREEMENT

A. The CONSULTANT shall indemnify and save and hold harmless the CITY and its officials, officers, agents, attorneys and employees from and against any and all liability, claims, demands, damages, losses and expenses, including but not limited to court costs and reasonable attorney fees incurred by the CITY, and including without limitation damages for bodily and personal injury, death and property damage, resulting from the negligent acts or omissions of the CONSULTANT or its subconsultants in performance of this Agreement. PROVIDED HOWEVER, the total liability of CONSULTANT hereunder, in any event, shall in no event exceed $1,000,000.

B. The CITY, to the extent provided by applicable law, shall indemnify and save and hold harmless CONSULTANT and its officials, officers, agents, attorney, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including but not limited to court costs and reasonable attorney's fees incurred by CONSULTANT and including, without limitation, damages for bodily and personal injury, death, or property damage, resulting from the negligent acts or omissions of the CITY, or its officers, agents, subcontractors, sub-consultants, attorney, and employees in the execution, operation, or performance of this Agreement

C. Nothing in this Agreement shall be construed to create a liability to any person who is not a party to this Agreement and nothing herein shall waive any of the party's defenses, both at law or equity, to any claim, cause of action or litigation filed by anyone not a party to this Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved.

ARTICLE X
INSURANCE

During the performance of the Services under this Agreement, CONSULTANT shall maintain the following insurance with an insurance company licensed to do business in the State of Texas by the State Insurance Commission or any successor agency, that has a rating with A. M. Best Rate Carriers of at least an "A-" or above:

A. Comprehensive General Liability Insurance with bodily injury limits of not less than $1,000,000 for each occurrence and not less than $1,000,000 in the aggregate, and with property damage limits of not less than $100,000 for each occurrence and not less than $100,000 in the aggregate.

B. Automobile Liability Insurance with bodily injury limits of not less than $1,000,000 for each person and not less than $1,000,000 for each accident and with property damage limits for not less than $100,000 for each accident.

C. Worker's Compensation Insurance (if applicable) in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than $100,000 for each accident.

D. Professional Liability Insurance with limits of not less than $1,000,000 annual aggregate.

E. CONSULTANT shall furnish insurance certificates or insurance policies at the CITY's request to evidence such coverage to the extent that is possible. Otherwise CONSULTANT

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shall furnish to CITY within fifteen (15) days of the date of approval of this Agreement, certificates of insurance evidencing the required coverage. The insurance policies shall name the CITY as an additional insured on all such policies to the extent legally possible (save and except the coverage described in Subparagraph C. and D. of this Article), and shall contain a provision that such insurance shall not be cancelled or modified without thirty (30) days prior written notice to CITY and CONSULTANT. In such event, the CONSULTANT shall, prior to the effective date of the change or cancellation of coverage, deliver copies of any such substitute policies furnishing at least the same policy limits and coverage to OWNER.

ARTICLE XI
ARBITRATION AND ALTERNATE DISPUTE RESOLUTION

The parties may agree to settle any disputes under this Agreement by submitting the dispute to arbitration or other means of alternate dispute resolution such as mediation. No arbitration or alternate dispute resolution arising out of or relating to, this Agreement involving one party's disagreement may include the other party to the disagreement without the other's approval.

ARTICLE XII
LIMITATION OF LIABILITY

A. CONSULTANT's liability to the CITY shall extend only to those actual damages suffered by the CITY as a result of CONSULTANT's breach of this Agreement. CONSULTANT's liability shall not exceed the amount actually paid by the CITY for the professional services involved in this Agreement.

B. Notwithstanding the provisions of Article XII.A of this Agreement, the provisions and the insurance coverage provided for in Article X. of this Agreement shall apply, and shall be in full force and effect. CONSULTANT must maintain the insurance set forth in Article X. or otherwise, upon the occurrence of an insurable event for which CONSULTANT should be covered under the terms of this Agreement, CONSULTANT shall be liable to CITY for actual damages, up to the required face amount of each applicable insurance policy. In no event will Consultant be liable to CITY for any indirect, consequential, or special damages.

ARTICLE XIII
CONSEQUENTIAL DAMAGES

In no event and under no circumstances shall CONSULTANT be liable to CITY for any interest, loss of anticipated revenues, earning, profits, or increases expense of operations, or for any consequential indirect, or special damages.

ARTICLE XIV
PROFESSIONAL STANDARDS

CONSULTANT will perform services under this Agreement with the degree of skill and diligence normally practiced by professional engineers or consultants performing the same degree of similar services. No other warranty or guarantee, expressed or implied, is made with respect to the services furnished under this Agreement and all implied warranties are disclaimed.

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ARTICLE XV
TERMINATION OF AGREEMENT

A. Notwithstanding any other provision of this Agreement, either party may terminate this Agreement by providing thirty (30) days advance written notice to the other party.

B. Alternatively, this Agreement may be terminated in whole or in part in the event of either party substantially failing to fulfill its obligations under this Agreement. No such termination will be effected unless the other party is given (1) written notice (delivered by certified mail, return receipt requested) of intent to terminate and setting forth the reasons specifying the nonperformance or other reason(s), and not less than (30) calendar days to cure the failure; and (2) an opportunity for consultation with the terminating party prior to termination.

C. If the Agreement is terminated prior to completion of the services to be provided hereunder, CONSULTANT shall immediately cease all services and shall render a final bill for services to the CITY within thirty (30) days after the date of termination. The CITY shall pay CONSULTANT for all services properly rendered and satisfactorily performed, and for reimbursable expenses prior to notice of termination being received by CONSULTANT, in accordance with Article V of this Agreement. Should the CITY subsequently contract with a new consultant for the continuation of services on the Project, CONSULTANT shall cooperate in providing information to the CITY and the new consultant. The CONSULTANT shall turn over all documents prepared or furnished by CONSULTANT pursuant to this Agreement to the OWNER on or before the date of termination but may maintain copies of such documents for its use.

ARTICLE XVI
RESPONSIBILITY FOR CLAIMS AND LIABILITIES

Approval of the work by the CITY shall not constitute nor be deemed a release of the responsibility and liability of the CONSULTANT, its officers, employees, agents, subcontractors, and sub-consultants for the accuracy and competency of their designs or other work performed pursuant to this Agreement; nor shall such approval by the CITY be deemed as an assumption of such responsibility by the CITY for any defect in the design or other work prepared by the CONSULTANT, its officers, employees, agents, subcontractors, and sub-consultants.

ARTICLE XVII
NOTICES

All notices, communications, and reports required or permitted under this Agreement shall be personally delivered, faxed e-mailed, or may be mailed to the respective parties by depositing same in the United States mail at the addresses shown below, by means of U. S. Mail, postage prepaid, certified mail, return receipt requested, unless otherwise specified herein.

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To CONSULTANT:

Telvent USA, LLC
Attn: Legal Department
4701 Royal Vista Circle
Fort Collins, CO 80528

Fax No. (970) 223-5577

To CITY:

City of Denton, Texas
Attn: Jerry Fielder, P.E.
1659 Spencer Road
Denton, Texas 76205

Fax No. (940) 349-7334

And

City of Denton, Texas
Attn: City Manager
215 East McKinney Street
Denton, Texas 76201

Fax: (940) 349- 8596

All notices under this Agreement shall be effective upon their actual receipt by the party to whom such notice is given or within three days after the date of mailing.

ARTICLE XVIII
ENTIRE AGREEMENT

This Agreement, consisting of thirteen (13) pages and Exhibit "A" consisting of thirty-one (31) pages, constitutes the complete and final expression of the Agreement of the parties and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior contemporaneous offers, promises, representations, negotiations, discussions, communications understandings, and agreements which may have been made in connection with the subject matter hereof.

ARTICLE XIX
SEVERABILITY

If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement, and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform this Agreement, to the extent reasonably possible, to replace such stricken provision with a valid and enforceable provision which comes as close as possible to expressing the original intentions of the parties respecting any such stricken provision.

ARTICLE XX
COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state, local laws, rules, regulations, and ordinances applicable to the work performed by CONSULTANT hereunder, as they may now read or hereafter be amended.

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ARTICLE XXI
DISCRIMINATION PROHIBITED

In performing the services required hereunder, the CONSULTANT shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

ARTICLE XXII
PERSONNEL

A. The CONSULTANT represents that it has secured, or will secure at its own expense at its own expense any additional personnel required to perform all the services under this Agreement. Such personnel shall be subconsultants of CONSULTANT, and shall not be employees or officers of, nor have any contractual relations with the CITY. CONSULTANT shall inform the CITY of any conflict of interest or potential conflict of interest that may arise during the term of this Agreement.

B. All services required hereunder will be performed by the CONSULTANT or under its supervision. All personnel engaged in performing the work shall be qualified, and shall be authorized and permitted under state and local laws to perform such services.

C. It is hereby mutually agreed that the CITY and CONSULTANT will not solicit, hire, or contract with any employee(s) of the CITY's or CONSULTANT's staff who are associated with efforts called for under this Agreement during the term of this Agreement and for a period of one (1) year thereafter. In the event the foregoing provision is breached, liquidated damages equal to twelve (12) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision shall be paid by the hiring party, whether CITY or CONSULTANT.

ARTICLE XXIII
ASSIGNABILITY

The CONSULTANT shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment, novation or otherwise) without the prior written consent of the OWNER. CONSULTANT shall promptly notify OWNER, in writing, of any change of its name as well as of any material change in its corporate structure, its location, and/or its operations.

ARTICLE XXIV
MODIFICATION

No waiver or modification of this Agreement or of any covenant, condition, limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, unless such waiver or modification is in writing, duly executed.

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The parties further agree that the provisions of this Article will not be waived unless as herein set forth.

ARTICLE XXV
MISCELLANEOUS

A. The following Exhibit "A" is attached to, incorporated herewith by reference, and made a part of this Agreement for all purposes pertinent:

Exhibit "A" --- CONSULTANT'S Scope of Work

B. CONSULTANT agrees thatCITY shall, until the expiration of four (4) years after the final payment made by CITY under this Agreement, have access to and the right to examine any pertinent books, documents, papers and records of the CONSULTANT involving transactions relating to this Agreement. CONSULTANT agrees that OWNER shall have access during normal working hours to all necessary CONSULTANT facilities and shall be provided adequate and appropriate working space in order to conduct examinations or audits in compliance with this Article. CITY shall give CONSULTANT reasonable advance notice of all intended examinations or audits.

C. Venue of any suit or cause of action under this Agreement shall lie exclusively in Denton County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

D. For the purpose of this Agreement, the key persons who will serve as Project Manager respecting this engagement shall be Brent Heath, and Rick Frymyer, Strategic Account Manager of CONSULTANT. However, nothing herein shall limit CONSULTANT from using other qualified and competent consultants and administrative support personnel of their firm to perform the services required herein.

E. CONSULTANT shall commence, carry on, and complete its work on the Project with all applicable dispatch, and in a sound, economical, efficient manner, and in accordance with the provisions hereof. In accomplishing the Project, CONSULTANT shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on by the CITY.

F. The CITY shall assist the CONSULTANT by placing at the CONSULTANT's disposal all available information pertinent to the Project, including previous reports, any other data relative to the Project and arranging for the access to, and make all provisions for the CONSULTANT to enter in or upon, public and private property as required for the CONSULTANT to perform professional services under this Agreement. CITY and CONSULTANT agree that CONSULTANT is entitled to rely upon information furnished to it by CITY without the need for further inquiry or investigation into such information.

G. During the entire course of the project, CITY will be responsible for backup/recovery of all onsite project related digital data, materials, and databases. CONSULTANT will be responsible for backup/recovery of all project related data housed on CONSULTANT computer systems.

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H. The captions of this Agreement are for informational purposes only and shall not in any way affect the substantive terms or conditions of this Agreement.

Remainder of Page Intetionally Left Blank
Signatures on next page

IN WITNESS WHEREOF, the City of Denton, Texas has executed this Agreement in four (4) original counterparts, by and through its duly-authorized City Manager; and Telvent USA LLC, a Delaware limited liability company, having executed this Agreement by and through its duly-authorized undersigned officer, on this the 7th day of May, 2013.

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By: _____

"CONSULTANT"

TELVENT USA LLC
A Delaware Limited Liability Corporation

By: _____
Drew Ditter

ATTEST:
Heather R Hansen

By: _____

Telvent Legal Reviewed

EXHIBIT A

See attached Scope of Work entitled
ArcFM Solution Upgrade

Telvent
Legal Reviewed

TELVENT



Smart Information for a Sustainable World

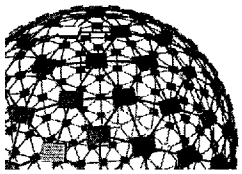
Scope of Work

ArcFM Solution Upgrade Services

Prepared for:
Denton Municipal Electric
at the City of Denton

Proposal Date: 2/11/2013

Version Number: 7.1



Telvent USA, LLC
4701 Royal Vista Circle
Fort Collins, CO 80528
Phone: 970-223-1888
Fax: 970-223-5577

www.telvent.com

ArcFM™ SOLUTION

Smart Grid Solution

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Introduction

Telvent USA, LLC (Telvent) is pleased to provide to Denton Municipal Electric (DME) at the City of Denton this Scope of Work for ArcFM Solution Upgrade Services.

The upgrade of software components defined in this SOW relates to only those custom components in use at DME that were developed by Telvent during previous ArcFM implementation or upgrade projects. The upgrade of custom components developed either in-house by DME, or by other entities, is not included in this SOW. Should DME request Telvent to perform services beyond those specified in this scope of work, a contract change order will be required.

Assumptions

Upgrade Assumptions

- An environment for conversion and upgrades will be established in the Fort Collins office of Telvent, using an Oracle 10g export from DME's existing ArcGIS database. The environment will be configured to operate similarly as DME's new Servers which will be running ArcFM Solution version 10.1 on an Oracle 11g database.
- Telvent will be performing the requested Long Raw to Blob conversion at the time of the database upgrade.
- DME will provide a full database export 10g initially for Telvent to load onto their Fort Collins environment and upgrade and test. DME export of the SDE database should arrive in the Fort Collins office at least four (4) days prior to the arrival of the Telvent Technical Lead on-site to give Telvent adequate time to perform the upgrade and test.
- Telvent has included an on-site visit during the course of the project to assist in the installation of the upgraded system on DME's development environment. This visit will occur after the database has been upgraded in the Fort Collins test environment.
- Telvent requests that DME's DBA be available for the duration of the on-site visit.
- Only the custom Telvent components listed are included in the upgrade SOW.
- No new functionality will be incorporated into the existing custom components. They will continue to function as they do currently. However, a new AutoUpdater will be created in accordance with 1.3.2 of this SOW.
- The mobile replication process will be included in this SOW. An example of what will not be included will be the implementation of replicating aerial images; however, that process and ability will be available but not configured.
- DME should be prepared to provide, for the duration of the on-site upgrade effort, a connection to DME network for the Telvent Technical Lead and an

active internet connection port for the Telvent laptop computer in the same area as the electric GIS client workstations.

- Extended Feeder Manager assumes that all electric data resides within the same geometric network.

Fiber Manager Assumptions

- Since DME already has existing Fiber features and classes, Telvent has not included any Fiber data migration work included in this scope of work. It is assumed that DME will utilize the Fiber Manager Tools to input or migrate all fiber data into the system manually. Should DME wish Telvent to provide assistance with any data migration, a separate scope and costs will be provided for that effort.
- It is assumed that stored displays can be created through a combination of symbols from the standard Fiber Manager symbol set or standard Esri symbol sets. This scope does not include time for creating custom symbols.

Responder Assumptions

- DME will use a standard out-of-the-box configuration of Responder. Telvent will work with DME to adjust this configuration to load DME's users into the appropriate user roles, adjust the incident creation parameters according to DME's requirements, assist DME with how to create and enter and set up new users, Crew and Truck information. Telvent will assist DME in creating an Outage Stored Display that allows DME to view outage and crew information within the ArcFM environment and work with DME to create a process that will maintain the Responder customer information with the GIS customer tables.
- DME will use an out-of-the-box installation of the Responder toolset. No custom tools will be developed during DME implementation of the Responder web-browser, the Responder Explorer, or the Responder tools for ArcGIS beyond the specified interfaces of Northstar CIS, Porche IVR system, OSI SCADA system, and associated communication networks.
- Two or more dispatchers will be able to use the system at any time; however the system will not be configured to assign a dispatcher to specific areas of responsibility. Telvent will provide knowledge transfer to DME staff on how to assign specific dispatchers to areas of responsibility.
- Truck and Crew information would be loaded from an existing data source or entered manually by DME personnel.
- ArcFM Feeder Manager is configured and running on DME electric dataset. All features are connected to the network and contain the appropriate attributes for correct tracing.

- Customers will be related to either service points or transformers. If customers are related to service points, the secondary network will support electrical tracing between the transformer and the service points. In either case the network sill support electrical tracing between transformer and source breakers.
- Telvent does not expect and has added no time in this scope of work (due to existing functional OMS implementation at DME) for any required data cleaning activities that may be required to operate Responder. Telvent expects that DME will make the data 'Responder Ready' based upon any deficiencies discovered by Telvent during the database upgrade, including ensuring that the Primary Electric Network has appropriate connectivity, ensuring either connectivity from the transformer to the customer point or build relationships between the transformer and the customer point, and ensuring that ArcFM traces can run properly on the network (ie: phasing and voltage levels are correctly populated on the network features).
- DME will have all necessary hardware and network equipment installed prior to the initiation of the project including, but not limited to:
    - A Windows server that will be used to run the Responder business server processes such as the prediction engine and data services
    - A Web Server that will host the Responder Web Browser application
    - Client machines to access the application
    - Network equipment and cable to allow the machines to interact
- DME will provide Telvent remote VPN access to the GIS and Responder systems to assist in the implementation and troubleshooting of issues should they arise after deployment. The City of Denton VPN remote access must be approved and conform to COD Technology Services criteria.
- All GIS, CIS, IVR, and SCADA integrations will be performed through existing COD networking or proposed web services when possible:
- Telvent will be responsible for creating web services to receive messages from the IVR, SCADA and CIS system interfaces or utilize existing COD networking that is established or that will be established. Final solution to be determined after Telvent meets with DME and Technology Services to discuss proposed solutions and interfaces.
- Telvent will be responsible building interfaces which consume web services built by DME and/or other vendors for the IVR, SCADA or CIS systems.
- The services represented in this scope of work are to configure ArcFM Fiber Manager for Fiber Optic feature classes only, and do not include configuration services for Coax, Copper, or Wireless features.

Proposed Services

1 ArcFM Solution Upgrade from Version 9.3.1 to 10.1.x

This section describes the tasks and subtasks required to migrate DME to the ArcGIS for Desktop 10.1.x, ArcGIS for Server (SDE) 10.1.x, and ArcFM 10.1.x environments or the latest recommended environment and then test and verify that all Telvent installed software and migrated custom code, including ArcFM Geodatabase Replication functions properly.

1.1 Project Initiation

Members of the Telvent project team and DME representatives shall attend a project kick-off conference call. The agenda for this call shall be as follows:

- Introduce Telvent team members, including the Project Manager and Database Analyst.
- Review Scope of Work and Project Plan.
- Review deliverables.
- Discuss and define DME tasks required to complete the project.
- Review change control procedures.
- Review project status reporting procedures.
- Identify project risks and issues, and plan mitigation where appropriate.

Telvent Deliverables:

- Kick-off meeting attendance by Project Manager and Database Analyst.
- Meeting notes.

DME Responsibilities:

- Kick-off meeting attendance.

Task Assumptions:

- Telvent understands DME Electric Engineering will be the sole point of contact for all configuration decisions needing to be made during the upgrade

1.2 Data Modeling Support

Telvent will participate in a WebEx-based conference call to discuss potential changes to the DME data model to support functionality with respect to the following:

- Hyperlinks
- Meter location vs Meter Number linkage to CIS
- Others (TBD by DME)

Telvent will make recommendations on any necessary changes to the data model to support the outcome of the discussion. It is anticipated that DME will make the changes to the data model.

Telvent Deliverables:

- Participate in Data Model discussion with DME staff

- Provide recommendations on changes to be made to the DME data model to support the additional functionality if necessary.

DME Responsibilities:

- Participate in Data Model discussion with Telvent DBA staff

1.3 Upgrade Custom Components

Following the establishment of the upgrade environment at Telvent, the process of migrating the DME's GIS environment to ArcFM and ArcGIS 10.1, Telvent will prepare for code upgrade by:

- Installing ArcFM Solution SDK.
- Registering ESRI upgrade add-ins as necessary

The custom code modules will then be upgraded using a process that will:

- Update Global Unique Identifiers in project files for .OCXs
- Open project in Visual Studio
- Remove missing references
- Perform manual checks and apply necessary changes

There are specific changes that must be made when an application uses Shared Product Code samples including:

- Recompile code
- Perform unit test

1.3.1 Upgrade Custom ArcFM Solution Components

Telvent shall apply the ArcFM upgrade process to migrate the existing ArcFM Solution custom tools to the new 10.1 environment. The tools to be migrated are:

- AutoUpdater to populate Transformer LabelText
- AutoUpdater to populate Conductor LabelText
- AutoUpdater to update Transformer Unit information in the Inventory System
- AutoUpdater to modify the TransformerID in ServiceLocation when a transformer is replaced, removed, or when a new ServiceLocation is added
- AutoUpdater to populate BankKVA in TransformerBank when a TransformerUnit record is changed or added.
- Custom Inspection application.

Telvent Deliverables:

- Upgraded Custom ArcFM Solution tools
- Provide documentation on what each customized tool is and how it functions. Any existing information from the original creation of each customized autoupdater will be delivered to DME.

DME Responsibilities:

- None

Task Assumptions

- Telvent understands DME Electric Engineering will be the sole point of contact for all configuration decisions needing to be made during the upgrade

1.3.2 Create Additional Custom ArcFM Solution Components

Telvent shall discuss and work with DME to create the following custom AutoUpdater in the new 10.1 environment.

- AutoUpdater to populate new and replaced meters into the Service Account Record and the related meter record.

Telvent will develop component specification documents describing the custom AutoUpdaters to be developed for DME. These component specifications will be used as the blueprint for development of the required custom AutoUpdaters.

Telvent will revise the Component Specifications after reviewing DME's comments. Telvent will initiate (if necessary) a conference call to discuss the revisions necessary to the document. The revisions will only include changes both parties agree upon.

DME will review and provide comments to Telvent on the Draft Component Specification Document within five (5) business days of receiving the documents.

DME will approve the Component Specifications. This document will be the basis for the Custom AutoUpdater.

Telvent will develop the AutoUpdater, using its standard development process including coding, a prototype demonstration via WebEx of the user interface with DME, code reviews with peers, unit testing, and code documentation.

Telvent Deliverable(s):

- Draft & Final Component Specification Document
- WebEx Prototype review
- Custom AutoUpdaters

DME Responsibilities:

- Ensure attendance at prototype review by appropriate staff
- Comments on the Draft Component Specifications Document
- Approval of the Final Component Specifications

Task Assumptions:

- None

1.4 Deployment to Development Support

1.4.1 Install ArcFM, ArcGIS for Server, & ArcGIS 10.1 in Development Environment

DME will install the following software on DME development system:

- ArcGIS for Server 10.1
- ArcGIS for Desktop 10.1 on desktop machines in the development environment
- ArcFM, ArcFM Viewer, and ArcFM Geodatabase Replication 10.1

Telvent Deliverables:

- Remote assistance in the installation of the development system and converting any licenses required.
- Complete documentation of the process involved to configure a machine with each type of existing software products (ArcFM, ArcFM Viewer, ArcFM Viewer for Engine, and ArcFM Geodatabase Replication, demonstrate the proper way to upgrade the client on both Viewer and Engine machines.

DME Responsibilities:

- Installation of the development system.

Task Assumptions:

- DME has the installed and configured the database server for Oracle 11g prior to Telvent's arrival onsite.

1.4.2 Configure Development Environment

Telvent will travel to DME and install the migrated custom code and will migrate the existing ArcFM Solution configuration into the development environment with assistance from DME. This configuration migration will include:

- Model Name Assignments
- Special AutoUpdater Assignments
- Field AU Assignments
- Relationship AU Assignments
- Relationship Rules
- Connectivity Rules
- Snapping Rules
- Px Framework configuration
- ArcFM Geodatabase Replication configuration

Telvent Deliverables:

- Migrated Custom Code
- Migration of the existing ArcFM configuration to the development environment.
- Provide detailed documentation of any process that operates or is handled in a uniquely different way than DME's current configuration.

DME Responsibilities:

- Assistance in the migration of the existing ArcFM configuration to the development environment.

1.4.3 Update Test & Acceptance Plan

To ensure that all application functionality is fully tested in exactly the same manner as it is used in production at DME, Telvent asks that DME update the Acceptance Test Plan used during the previous implementation and upgrade efforts. Telvent will provide recommendations on areas of the test plan to be updated based on new or modified functionality.

Telvent will review the updated plan and provide feedback where appropriate. The final plan shall be used to guide acceptance testing.

Telvent Deliverable(s):

- Comment on Acceptance Test Plan documents

DME Responsibilities:

- Update Acceptance Test Plan

1.4.4 Site Acceptance Testing – Development Environment

DME shall perform Site Acceptance Testing (SAT) for ArcFM, ArcFM Viewer for ArcGIS Engine, Inspector, and ArcFM Server, using the Acceptance Test Plan developed in Task 1.4.3. DME team members shall record any issues discovered during testing in the issue tracking system. Telvent will provide a resolution for all discrepancies and will resolve all Critical or High issues before completion of SAT.

Telvent Deliverables:

- Three (3) days of onsite testing support by Telvent

DME Responsibilities:

- Provide details on issues found including steps taken to re-create the problem and any specific data used during the test
- Complete SAT

1.5 Deployment to Production Support

1.5.1 Install ArcFM, ArcGIS for Server, & ArcGIS 10.1 in Production Environment

DME will install the following software on DME production environment:

- ArcGIS for Server 10.1
- ArcGIS for Desktop 10.1 on 2 desktop machines in the production environment
- ArcFM, ArcFM Viewer, and ArcFM Geodatabase Replication 10.1
- Custom tools upgraded in Task 1.3.11.3.1

DME has requested that, Telvent travel to DME to assist with migrating from the development environment to the production environment. Telvent shall be onsite at the time DME switches from the IBM production environment to the new Linux production servers. Should it become necessary for Telvent to travel to DME after the initial production environment migration to Linux visit a change order would be issued for these additional travel and service costs.

Telvent Deliverables:

- Onsite assistance in the installation of the production system and converting any licenses required.

DME Responsibilities:

- Installation of the production system based on the installation and configuration documentation delivered in Task 1.4.1

1.5.2 Configure Production Environment

The Telvent Technical Resource will remotely assist DME in the migration of the existing ArcFM Solution configuration into the production environment. This configuration migration will include:

- Model Name Assignments
- Special AutoUpdater Assignments
- Field AU Assignments
- Relationship AU Assignments
- Relationship Rules
- Connectivity Rules
- Snapping Rules
- Px Framework configuration
- ArcFM Geodatabase Replication configuration

Telvent Deliverables:

- Remote assistance in the migration of the existing ArcFM configuration to the production environment.
- Provide detailed documentation of any process that operates or is handled in a uniquely different way than DME's current configuration.

DME Responsibilities:

- Migration of the existing ArcFM configuration to the production environment.

2 ArcFM for Silverlight Implementation

2.1 Project Initiation

Telvent team will host a Project Kickoff conference call with DME. During the Kickoff Meeting, Telvent will present the project plan to review the tasks, responsibilities, and dependencies. The team will review the goals and methodology for the project and make sure all participants fully aware of all aspects of the project. The team will then cover the administrative framework for managing the project. We will establish communication protocols, business processes, and change control processes.

Telvent Deliverables:

- Agenda
- Project Kickoff Conference Call

DME Responsibilities:

- Ensure attendees are invited in advance and are present during the meeting

Assumptions:

- All project negotiations will be complete

2.2 Install & Configure Hardware

Telvent will provide DME a list of the required hardware and software to support the DME environment.

DME will install and test the required hardware and operating system software to support ArcFM Server and the ArcFM Silverlight Viewer.

Telvent Deliverables:

- Provide list of hardware and software to support the ArcFM Server environment.

DME Responsibilities:

- Install and test hardware and operating system software.

2.3 Configure ArcFM for Silverlight

In this task series Telvent will ensure the DME Geodatabase is configured to use the tools required in ArcFM Server for Silverlight.

During the configuration Telvent will:

- Ensure the correct operation of ArcFM for Silverlight in the DME environment
    - Ensure the table names and aliases in the DME geodatabase do not use any of the following special characters: & @ * $ ' " ; : / \ < > { } [ ] % ^ #.
    - Verify that all tables in the geodatabase have a field (e.g., ObjectID) with a data type of OID. (Note: This field must contain a unique value for each feature.)
- Create an ArcGIS Map Service using ArcCatalog and assign the ArcFMMapServer extension.
- Configure Layers
- Configure Related Data
- Configure Searches
- Configure Printing
- Set Up Redlining
- Configure Tracing

Telvent Deliverables:

- Configure ArcGIS Server and ArcFM Server for Silverlight
- Produce process document outlining configuration steps

DME Responsibilities:

- Provide access to DME web server environment to Telvent resources

2.4 Publish Map services

Telvent will create a map services based upon the Map Document provided by DME. Telvent will define, configure, and run the caching process on the published map service.

Telvent Deliverables:

- Publish map/data service based on DME's map documents
- Use both ArcMap and the ESRI Server Manager application to test map service.
- Produce process document outlining steps necessary to publish service
- Analyze and document map cache requirements.
- Create cache for published map service
- Produce process document outlining steps necessary to cache services

DME Responsibilities:

- Provide relevant map documents.
- Provide guidance on cache scales required

Task Assumptions:

- Security and permissions have been configured to allow ArcGIS Server accounts access to necessary data sources.
- It is understood that caching to the ArcGIS Server is a computational intensive process and depending on complexity and extent of data some caching processes could take several hours or even several days.

2.5 Post Rollout Support

The Telvent team will provide three (3) days of onsite support to DME after the system has been put into use. This support will provide DME with direct access to a technical resource to answer questions and help resolve issues related to the implementation of ArcFM Server and the ArcFM Silverlight Viewer.

Telvent Deliverable(s):

- Onsite ArcFM Server technical support for DME for three (3) days following system rollout

DME Responsibilities:

- Provide access for the onsite technical resource to enable quick troubleshooting of any issues identified during this time.
- Provide facility access so the Telvent technical resource can work with DME staff directly.

3 Fiber Manager Implementation

3.1 Project Kickoff

Telvent will host a WebEx based Project Kickoff Meeting. The team will review, discuss and make sure all participants fully understand the goals and methodology for the project. Telvent will also review the project plan to describe the tasks, responsibilities, and dependencies. The team will then cover the administrative framework for managing the project. We will establish communication processes, business processes (for example, configuration control and access control), and change control processes.

Telvent will review with DME any necessary map products and feature configurations that should be gathered prior to the onsite work to allow time for the materials to be collected. DME will provide Telvent with the projection information necessary to create the Fiber Geodatabase.

Telvent Deliverable:

- Host WebEx based project kick-off meeting

- Lead discussion on DME-specific map products and feature configurations to be reviewed during the knowledge transfer sessions

DME Responsibilities
- Ensure appropriate personnel attend the Project Kickoff Meeting

Task Assumptions
- The project kickoff meeting will be performed via WebEx

3.2 Create and Configure Geodatabase

Telvent will create an ArcFM Fiber Manager Fiber Dataset that is in the DME-provided coordinate system. Telvent will then apply a standard ArcFM Fiber configuration to the dataset. The configuration will include all favorites, field properties, Autoupdater assignment, model name assignment, stored displays, page templates, and standard symbology that are provided within the Minerville Fiber sample database.

Telvent Deliverable:
- A Fiber Geodatabase using the DME coordinate system created from the ArcFM Fiber Manager data model and configured with the Minerville Fiber sample database configuration.

DME Responsibilities
- Provide Telvent with the DME coordinate system

Task Assumptions:
- No data model or configuration changes will be included in the creation and configuration of the DME Fiber Geodatabase

3.3 Fiber Manager Installation & Configuration

3.3.1 Install Fiber Manager Data Model

Telvent will travel to DME to install the ArcFM Fiber Manager data model.

Once installed, Telvent will test the system to ensure that the core ArcFM Fiber Manager functionality works within the environment established. Telvent will update the pre-configured Stored Displays to ensure that the data sources for the GIS layers available from the clients current enterprise GIS are available to the DME user.

Telvent Deliverable:
- Installing the Fiber Manager geodatabase in the ArcGIS Server instance.
- Verification of the installation.

DME Responsibilities
- Provide access to the DME workstation computers and the network file locations.
- Participate in the installation and verification process to gain knowledge about the ArcFM system.
- Ensure ArcGIS Server instance is installed and ready for data loading.

Task Assumptions:
- The installation of the Fiber Manager software will be performed on the same two (2) workstation computers that the ArcFM software was install on.

3.3.2 Data Editing and Configuration Settings Knowledge Transfer

Following the software installation and verification, Telvent will lead a three (3) day Fiber data editing/entry/configuration workshop with DME GIS and DME Fiber personnel. The workshop will be a hands-on exercise and is designed to introduce DME personnel to the basic tasks necessary for editing and maintaining an ArcFM Fiber Manager geodatabase.

The workshop will provide:

- Step-by-step instruction on building a fiber circuit in ArcFM starting by drawing a fiber cable in the map, placing a patch location, splice points, slack loops, and fiber faults. The workshop will also demonstrate the use of the Connection Manager to enter the connection information.
- Demonstration of the ArcFM Attribute Editor to correct attributes of features already placed in the system.
- Telvent will demonstrate how to leverage the editing productivity tools within ArcFM such as the ArcFM Target tab, ArcFM favorites, composite favorites, & templates, create new favorites & composite favorites from existing features, the ArcFM Snapping Manager, and the ArcFM QA/QC tools.
- Additional instruction on editing the symbology of an existing Fiber stored display to more closely match DME existing map products.
- Additional instruction on creating a new Fiber stored display to meet specific DME data viewing requirements.
- Additional instruction on modifying an existing Page Template to adjust the map surround to meet specific DME needs.
- Additional instruction on modifying domains in the fiber data model through ArcCatalog.
- Additional instruction on creating new favorites for patch locations, devices and fiber optic cables.

Telvent Deliverable:

- Three (3) day onsite workshop presenting and using the ArcFM and Fiber Manager data editing and configuration tools following a step-by-step process to create & maintain fiber data in the ArcFM Solution.

DME Responsibilities

- Participate in the workshop, performing the data entry and editing work, under the direction of Telvent.

3.4 Remote Editing & Configuration Support

Telvent will provide up to eight (8) hours of addition remote support to DME GIS Personnel during the four weeks immediately following the Fiber Manager installation, editing, and configuration workshops.

This support allows DME personnel to call Telvent resources assigned to the DME project to ask questions regarding the use of the ArcFM Fiber Manager tools and their configuration. Telvent will respond to questions through WebEx demonstrations, conference calls, and emails, as appropriate.

Telvent Deliverable:

- Up to eight (8) hours of remote support to DME to respond to questions and issues on the use and configuration of Fiber Manager.
- Prompt responses to issues raised by DME

DME Responsibilities

- Initiate any communications and present the issues in a clear concise manner.

Task Assumptions:

- DME will be able to provide remote access to their GIS through WebEx

4 Responder Implementation

4.1 Responder – Design Phase

4.1.1 Project Kickoff

Our experience has demonstrated the value of discussing and establishing project parameters and the project plan at the beginning of the project. This ensures all participants have a clear understanding of the project drivers, expectations, and requirements.

In order for this implementation to be successful, DME will assign the following key personnel to support the project and will ensure each is available and can provide the necessary support, at the required times, over the course of the project. DME will ensure the individuals assigned possess the appropriate skills and are authorized to participate in decisions made over the course of the project.

- Executive Sponsor
- Project Manager
- IT System Administrator
- IT Database Administrator
- Subject Matter Experts on current outage processes at DME

Telvent and DME will conduct a two (2) hour conference call to formally begin the project. In this meeting, individuals fulfilling the project roles will be identified, the team will review the detailed project plan to identify and work around any conflicts, review and reach agreement on project drivers, and establish the procedures for identifying and resolving issues as they arise over the course of the project.

The team will review the project schedule and make adjustments to the schedule as needed to accommodate the team member's existing commitments.

Telvent Deliverable(s):

- Lead Project Kickoff Conference Call

DME Responsibilities:

- Participate in Project Kickoff Meeting

Task Assumptions

- None

4.1.2 Core Team Workshop

Telvent will travel to DME and present a two (2) day workshop to introduce DME's team members to the functionality available within Responder. This workshop will cover the Responder Web Browser application, the Responder Explorer, and the Responder tools available within ArcFM and how configurable options within these solutions can impact business processes.

Telvent Deliverable(s):

- Two (2)-day onsite presentation of the functionality available within Responder

DME Responsibilities:

- Attend Core Team Workshop
- Provide meeting facilities including projector

Task Assumptions

- None

4.1.3 Integration Requirements

4.1.3.1 Design Responder IVR Integration

Telvent will work closely with DME and Technology Services defining the requirements for the Responder Milsoft Porche IVR interface. During the onsite workshop, Telvent will lead the requirements discussion to define the functionality that must be included in the interfaces and the data expected to be passed between the applications.

Telvent expects that this interface will be based upon the following general requirements:

- DME and Technology Services will be responsible for providing an interface to receive calls from the IVR system.
- Telvent will create a web service to receive calls from DME's IVR interface. The structure of the call message to be determined by Telvent and DME. The web services will then submit validated calls to Responder as a new incident or part of an existing incident. The Telvent web service will reply back with a message stating if the call will be a new incident or part of a known incident with appropriate incident information available by Responder.
- Telvent will work with DME and Technology Services to build a mechanism for receiving/retrieving callbacks.

This scope of work is limited to the custom components necessary to allow Responder to accept messages from the IVR system, process the messages, and return messages to the IVR.

Telvent Deliverable(s):

- Lead Onsite Interface Requirements Workshop
- Draft and final copies of the Interface requirements document

DME Responsibilities:

- Ensure attendance at Interface Requirements Workshop by DME SMEs, and IVR SMEs as needed
- Provide meeting facilities
- Provide comments on Draft Functional Requirements Document

4.1.3.2 Design ArcFM/Responder CIS Interface

Telvent will develop processes to load NorthStar CIS data into the ArcFM and Responder customer tables, and to maintain it for ArcFM and Responder uses.

After the onsite workshop, Telvent will develop a functional requirements document and provide it to DME and Technology Services for review. Mutually agreed upon changes to the document will be incorporated into the final functional requirements document.

Telvent Deliverable(s):

- Lead Onsite Interface Requirements Workshop
- Draft and final copies of the Interface requirements document

DME Responsibilities:

- Ensure attendance at Interface Requirements Workshop by DME and Technology Services SMEs
- Provide meeting facilities
- Provide comments on Draft Functional Requirements Document

Task Assumptions

- None

4.1.3.3 Design Responder SCADA Integration

Telvent will work closely with DME and Technology Services defining the requirements for the Responder SCADA interface. During the workshop, Telvent will lead the requirements discussion to define the functionality that must be included in the interface and the data expected to be passed between the applications.

Telvent expects that this interface will be based upon the following general requirements:

- Receive from SCADA a message detailing a status change event that includes a Device ID which can be used to locate the device in GIS and the new device status

This scope of work is limited to the custom components necessary to allow Responder to accept messages from the SCADA system and process the messages to create an outage or to confirm a restoration.

Telvent Deliverable(s):

- Lead Onsite Interface Requirements Workshop
- Draft and final copies of the Interface requirements document

DME Responsibilities:

- Ensure attendance at Interface Requirements Workshop by DME and Technology Services SMEs
- Provide meeting facilities
- Provide comments on Draft Functional Requirements Document

Task Assumptions:

- This interface is only a one-way interface from SCADA to Responder. There is no anticipated functionality to send return messages to SCADA from Responder.

4.1.3.4 Design Responder MDMS Integration

Telvent will work closely with DME and Technology Services defining the requirements for the development of processes to load Itron MDMS meter data into the ArcFM and Responder customer tables, and to maintain it for ArcFM and Responder uses such as trigger OMS indication from AMI of a power outage at a specific AMI electric meter.

After the onsite workshop, Telvent will develop a functional requirements document and provide it to DME and Technology Services for review. Mutually agreed upon changes to the document will be incorporated into the final functional requirements document.

Telvent Deliverable(s):

- Lead Onsite Interface Requirements Workshop
- Draft and final copies of the Interface requirements document

DME Responsibilities:

- Ensure attendance at Interface Requirements Workshop by DME and Technology Services SMEs
- Provide meeting facilities
- Provide comments on Draft Functional Requirements Document

Task Assumptions

- None

4.2 Responder – Develop Phase

4.2.1 Develop Integrations

4.2.1.1 IVR Interface Development

Under this task, the Telvent team will develop and configure the Responder - IVR Interface. Prior to the start of development, the Telvent team will prepare a Component Specification. This document will contain information on the specific components that require configuration and customization including user and system interfaces, system and data inputs/outputs, database requirements, schema descriptions, system dependencies, and system architecture requirements/descriptions. A draft and final IVR Interface Component Specification will be submitted to DME and Technology Services for review, comment, and acceptance.

Following acceptance of the Component Specification, the Telvent team will use our standard development process to create this interface. This includes performing initial coding or configuration of the IVR interface, holding peer code reviews, performing unit testing, and fix defects as required.

During the development process, if appropriate, the Telvent team will provide DME and Technology Services with WebEx demonstration(s) showing the current state of the IVR interface to elicit comments on the design, usability of the tools, and to apprise DME and Technology Services of the project status. The Telvent team, DME and Technology Services, will mutually agree on the frequency of the demonstration(s) and method(s) used to conduct them.

Telvent Deliverable(s):

- Component Specification for the custom integration and tools
- Prototype demonstrations, held via WebEx, to show the development progress, as necessary
- Test plans for the interface to use during acceptance testing
- End User and Administrator documentation, as appropriate
- Installation wizard and guide
- IVR Interface components

DME Responsibilities:

- None

4.2.1.2 Develop CIS Interface

Under this task, the Telvent team will develop and configure the ArcFM - CIS Interface. Prior to the start of development, the Telvent team will prepare a Component Specification. This document will contain information on the specific components that require configuration and customization including user and system interfaces, system and data inputs/outputs, database requirements, schema descriptions, system dependencies, and system architecture requirements/descriptions. A draft and final CIS Interface Component Specification will be submitted to DME and Technology Services for review, comment, and acceptance.

Following acceptance of the Component Specification, the Telvent team will use our standard development process to create this interface. This includes performing initial coding or configuration of the CIS interface, holding peer code reviews, performing unit testing, and fix defects as required.

During the development process, if appropriate, the Telvent team will arrange WebEx demonstration(s) showing the current state of the CIS interface to elicit comments on the design, usability of the tool, and to apprise DME of the project status. The Telvent team, DME, and Technology Services will mutually agree on the frequency of the demonstration(s) and method(s) used to conduct them.

Telvent Deliverable(s):

- Component Specification for the custom integration and tools
- Prototype demonstrations, held via WebEx, to show the development progress, as necessary
- Test plans for the interface to use during acceptance testing
- End User and Administrator documentation, as appropriate

- Installation wizard and guide
- CIS Interface components

DME Responsibilities:

- None

4.2.1.3 SCADA Interface Development

Under this task, the Telvent team will develop and configure the Responder - SCADA Interface. Prior to the start of development, the Telvent team will prepare a Component Specification. This document will contain information on the specific components that require configuration and customization including user and system interfaces, system and data inputs/outputs, database requirements, schema descriptions, system dependencies, and system architecture requirements/descriptions. A draft and final SCADA Interface Component Specification will be submitted to DME and Technology Services for review, comment, and acceptance.

Following acceptance of the Component Specification, the Telvent team will use our standard development process to create this interface. This includes performing initial coding or configuration of the SCADA interface, holding peer code reviews, performing unit testing, and fix defects as required.

During the development process, if appropriate, the Telvent team will provide DME and Technology Services with WebEx demonstration(s) showing the current state of the SCADA interface to elicit comments on the design, usability of the tools, and to apprise DME of the project status. The Telvent team, DME, and Technology Services will mutually agree on the frequency of the demonstration(s) and method(s) used to conduct them.

Telvent Deliverable(s):

- Component Specification for the custom integration and tools
- Prototype demonstrations, held via WebEx, to show the development progress, as necessary
- Test plans for the interface to use during acceptance testing
- End User and Administrator documentation, as appropriate
- Installation wizard and guide
- SCADA Interface components

DME Responsibilities:

- None

Task Assumptions

- This interface is only a one-way interface from SCADA to Responder. There is no anticipated functionality to send return messages to SCADA from Responder.

4.2.2 Responder Configuration

After DME and Technology Services confirm that the infrastructure for the Responder system is in place, Telvent will install and configure the Responder system at DME.

4.2.2.1 Responder Configuration Specification Workshop

Telvent will lead an onsite Responder configuration workshop to work with DME in transferring knowledge on how to configure Responder and defining DME-specific items such as machine names.

Telvent Deliverable(s):

- Lead Responder Configuration Workshop

DME Responsibilities:

- Attend Configuration Specification Workshop
- Provide meeting facilities

Task Assumptions

- None

4.2.2.2 Configuration Specification Development

Once the workshop is complete Telvent will document the results and provide the draft version of the document to DME for review. Any mutually agreed upon changes will be incorporated into the document and the final version will be delivered to DME.

Telvent Deliverable(s):

- Draft & Final Responder Configuration Specification documents

DME Responsibilities:

- Provide Comment on Draft Configuration Specification

Task Assumptions

- None

4.2.2.3 Install Responder Software and Standard Configuration

Telvent will install the Responder software and the out of the box Responder configuration files. Additionally, Telvent will create the Responder tables within the database to store Responder-specific data. Telvent will require support from a system administrator or user accounts with full access to the RDBMS in order to accomplish this task.

Telvent Deliverable(s):

- Onsite installation and configuration of Responder and Geodatabase

DME Responsibilities:

- RDBMS administrator support or full access to RDBMS
- Participate in installation to gain knowledge of Responder

Task Assumptions

- None

4.2.2.4 Configure Business Server

4.2.2.4.1 Configure Data Services

Telvent will configure the Data Services portion of Responder's Server.exe.config file. This configuration will be limited to:

- Updating the connection string information to point to DME's Responder database
- Updating the Geodatabase connection information to point to DME's ArcSDE Geodatabase
- Updating the path to the ControlStylesConfig.xml & the DMERulesConfig.xml to point to the file location of these files

Telvent Deliverable(s):

- Configured Data Services section of the Server.exe.config file

DME Responsibilities:

- Participate in configuration to gain knowledge of Responder

Task Assumptions

- None

4.2.2.4.2 Configure Responder Security

Telvent will configure Responder's Security by adding DME's core team of users to Responder using the Responder web application. Telvent will also instruct DME on how to enter their own users into the system. This configuration will be limited to:

- Adding DME specific users through the web application.
- Assigning one or more of the following user roles to each user: Customer Service, Dispatcher, Senior Dispatcher, Administrator, Archive

Telvent Deliverable(s):

- Configured Security.xml file

DME Responsibilities:

- Participate in configuration to gain knowledge of Responder

Task Assumptions

- None

4.2.2.4.3 Configure Database Schema file

Telvent will configure Responder's Database Schema file by modifying domain list options to configure Responder to better meet DME's business processes. Such configurable options will be covered in the core team training and specific needs determined during the configuration workshop (Task 4.2.2.1) and DME will be instructed on how to make these changes on their own:

- Telvent will perform the modifications to the Database Schema file as specified in the configuration workshop and will allow DME to confirm these settings through user acceptance testing.

Telvent Deliverable(s):

- Configured DatabaseSchemaConfig.xml file

DME Responsibilities:

- Participate in configuration to gain knowledge of Responder

Task Assumptions

- None

4.2.2.4.4 Configure Callbacks

Telvent will configure the standard Callback settings within Responder. Telvent will review the standard settings for Callbacks with DME. DME will then have the ability to change these at a future time.

Telvent Deliverable(s):

- None

DME Responsibilities:

- None

Task Assumptions

- None

4.2.2.4.5 Configure Prediction Engine

Telvent will configure the standard Prediction Engine settings within Responder. Telvent will review the standard settings for Prediction Engine with DME. DME will then have the ability to change these at a future time.

Telvent Deliverable(s):

- None

DME Responsibilities:

- None

Task Assumptions

- None

4.2.2.4.6 Configure MS Message Queuing

Telvent will configure Microsoft Message Queuing on the Responder server(s) and one client machine. Telvent will document and instruct DME on the proper configuration of Microsoft Message Queuing for all client installations.

This configuration will be limited to:

- Adding MS Message to Responder application and web servers and at least one client.

Telvent Deliverable(s):

- Configured Server-side message queuing

DME Responsibilities:
- Participate in configuration to gain knowledge of Responder

Task Assumptions
- None

4.2.2.5 Configure Responder Web Server

4.2.2.5.1 Configure Web Remoting

The web configuration file (WebRemoting.config) is an XML file that must be configured to work with Responder Data Services. Telvent will configure the WebRemoting.config file by assigning the business server name within the file. This configuration will be limited to:

- Assigning the business server name to the appropriate tag within the WebRemoting.config file

Telvent Deliverable(s):
- Configured WebRemoting.config file

DME Responsibilities:
- Participate in configuration to gain knowledge of Responder

Task Assumptions
- None

4.2.2.5.2 Configure Web Application

Telvent will configure or verify the configuration of the ASP.NET and dot Net framework for the web application:

- Restarting IIS after configuring the WebRemoting.config file
- IIS configuration and dot Net framework.

Telvent Deliverable(s):
- Configured IIS & Web application

DME Responsibilities:
- Participate in configuration to gain knowledge of Responder

Task Assumptions
- None

4.2.2.6 Configure DME Machines

4.2.2.6.1 Configure Responder within ArcMap

Telvent will configure the ArcMapRemotingconfig.xml file by assigning the business server name within the file. This configuration will be limited to:

- Assigning the business server name to the appropriate tag within the ArcMap.exe.config file

Telvent Deliverable(s):
- Configured ArcMap.exe.config file

DME Responsibilities:
- Participate in configuration to gain knowledge of Responder

Task Assumptions
- None

4.2.2.6.2 Configure Responder Explorer Application

Telvent will configure the Miner.Responder.Explorer.exe.config file by assigning the business server name within the file and the URL of the Responder Web application server. This configuration will be limited to:

- Assigning the business server name to the appropriate tag within the Miner.Responder.Explorer.exe.config file.
- Assigning the URL of the Responder Web Application.

Telvent Deliverable(s):
- Configured Miner.Responder.Explorer.exe.config file

DME Responsibilities:
- Participate in configuration to gain knowledge of Responder

Task Assumptions
- None

4.2.2.7 Configure Outage Stored Displays

Telvent will work with DME team to configure a Stored Display that allows DME to view outage information within the ArcFM environment. Telvent will focus on how DME can set and adjust the outage and truck symbology, enabling DME to maintain and update the stored display as required.

Telvent Deliverable(s):
- Stored Display Configuration Assistance

DME Responsibilities:
- Configure Stored Display for Responder

Task Assumptions
- None

4.2.2.8 Configure/Load Data

4.2.2.8.1 Enter Truck, and Crew Data

Telvent will work with DME to enter Truck and Crew data into Responder using the Responder Explorer.

Deliverable(s)

- Initial load of Truck and Crew data into Responder database.

DME Responsibilities:

- Load Truck and Crew data into Responder Database

Task Assumptions

- None

4.2.2.8.2 Drop Network, Modify Traceweight, Rebuild Network

In order to support analysis of the distribution network by Responder, Telvent will modify the trace weights maintained by the system for load points (those locations on the network where load is assigned). This is usually done by updating a Model Name in ArcCatalog and then updating the features within a version in the production Geodatabase. Telvent will complete this change and then run Feeder tracing to ensure the trace weights have been properly restored.

Telvent Deliverable(s):

- Configuration of Model Name and Update of the Trace Weights used in the Production Geodatabase for Load Points and verification of proper system operation following the change.

DME Responsibilities:

- RDBMS administrator support or full access to RDBMS

Task Assumptions

- None

4.2.2.9 Configuration Check

Telvent will perform a system walkthrough with DME representatives to confirm configurations have been completed and that the system is ready for the Site Acceptance Testing. Telvent will address any software configuration discrepancies identified during this review. DME will address any infrastructure, related subsystem, or personnel issues.

Telvent Deliverable(s):

- Configuration Check of Installed and Configured Responder.
- Configuration documentation

DME Responsibilities:

- Resolution of infrastructure, related subsystem, or personnel questions

Task Assumptions

- None

4.2.3 Functional Review

Telvent will perform an onsite functional review with DME representatives to review the functionality of Responder by walking through a series of scenarios. These scenarios will include the following processes:

- Receive a call, find the customer record, and enter it into the Call Taking web page in Responder Explorer
- Display the call in Responder Explorer and within ArcMap
- Enter additional calls until the predicted outage device is moved to the transformer feeding the customers and display the changes within Responder Explorer and ArcMap
- Enter additional calls until the predicted outage device is moved to the fuse protecting the branch line feeding the customers and display the changes within Responder Explorer and ArcMap
- Dispatch a crew to the incident and move the incident through the incident workflow to a confirmed outage
- Create a switching plan to restore power to the affected area and execute the switching plan
- Move the incident through the remaining steps of the incident workflow and archive the incident
- Create & View performance metrics reports (CAIDI, CAIFI, SAIDI, SAIFI, etc...)

This review will be performed at both the application level to view the effects on the system from the end user perspective as changes are made and at the database level so that the administrators of the system will have a detailed understanding of how Responder functions.

Telvent Deliverable(s):

- Three (3) day onsite Functional Review

DME Responsibilities:

- Participation in the Functional Review to gain knowledge of the Responder system

Task Assumptions

- None

4.3 Responder – Deploy Phase

4.3.1 Site Acceptance Testing (SAT)

4.3.1.1 Develop Acceptance Test Plan

DME will develop an Acceptance Plan based on the Responder functionality demonstrated during the Core Team training and the Functional Review. Telvent will provide a checklist of items that should be included in the Acceptance Test Plan for DME to use as a starting point.

Telvent Deliverable(s):

- Provide Template Acceptance Plan to DME

DME Responsibilities:

- Acceptance Plan

Task Assumptions
- None

4.3.1.2 Review and Comment Acceptance Test Plan

Telvent will review and comment on the Acceptance Test Plan and approve the plan prior to the start of Acceptance Testing.

Telvent Deliverable(s):
- Provide comments on the Acceptance Test Plan within five (5) business days.

DME Responsibilities:
- None

Task Assumptions
- None

4.3.1.3 Install & Configure Responder on DME Machines

Based upon knowledge gained during the configuration task, DME will install Responder client components as needed on client machines and copy the DME configuration files to the client machines based upon Telvent's recommendations and documentation.

Telvent Deliverable(s):
- None

DME Responsibilities:
- Install Responder DME components and copy client configuration files

Task Assumptions
- None

4.3.1.4 Conduct Site Acceptance Test

Telvent will provide onsite resources during the test period to address issues as they arise and to provide technical assistance to the team during the testing. DME will perform the SAT following Telvent's testing checklist to ensure that Responder functionality works within DME's environment.

Telvent Deliverable(s):
- Onsite SAT Support

DME Responsibilities:
- Conduct SAT per Testing Checklist

Task Assumptions
- None

4.3.1.5 Address Acceptance Test Issues

Telvent will correct any configuration issues that are discovered in the SAT. It is expected that any IT-related issues such as network connectivity or IT system settings will be addressed by DME and Technology Services.

Telvent Deliverable(s):
- Correction of configuration issues

DME Responsibilities:
- Correction of any IT network or systems issues

Task Assumptions
- None

4.3.1.6 Formal Acceptance

This milestone designates DME has completed the testing defined in the Test and Acceptance Plan and formally accepts the implemented system.

Telvent Deliverable(s):
- None

DME Responsibilities:
- Formal Acceptance per Testing Plan

Task Assumptions
- None

4.3.2 Working with Responder Training

Telvent will provide two (2) standard three (3)-day training courses for up to six (6) DME end users in each class. These courses will be standard Working with Responder training courses making use of Minerville data and the standard Responder incident management workflow. The Telvent Trainer will bring a laptop that contains an ArcSDE instance of Minerville to be used during the training classes.

Telvent Deliverable(s):
- Lead two (2) separate three (3) day Working with Responder training class for up to six (6) DME staff in each class.

DME Responsibilities:
- Attend Responder Training
- Provide training facilities including training hardware

Task Assumptions
- None

4.3.3 Responder Deployment Support

4.3.3.1 Go Live with Responder

This milestone designates the project team has completed the preparations, and the system is ready for operational use.

Telvent Deliverable(s):
- None

DME Responsibilities:
- Begin operational use of Responder system

Task Assumptions

- None

4.3.3.2 Production Responder Support

Telvent will provide an offsite technical resource that was involved in the setup and configuration in Denton to work with DME team during the initial two weeks of operational use to resolve any issues, work with users to clarify procedures, and help adjust configuration items as required. Telvent assumes that this person will use remote access to DME's OMS environment or WebEX to assist in any troubleshooting.

Telvent Deliverable(s):

- Two (2) weeks of remote support

DME Responsibilities:

- None

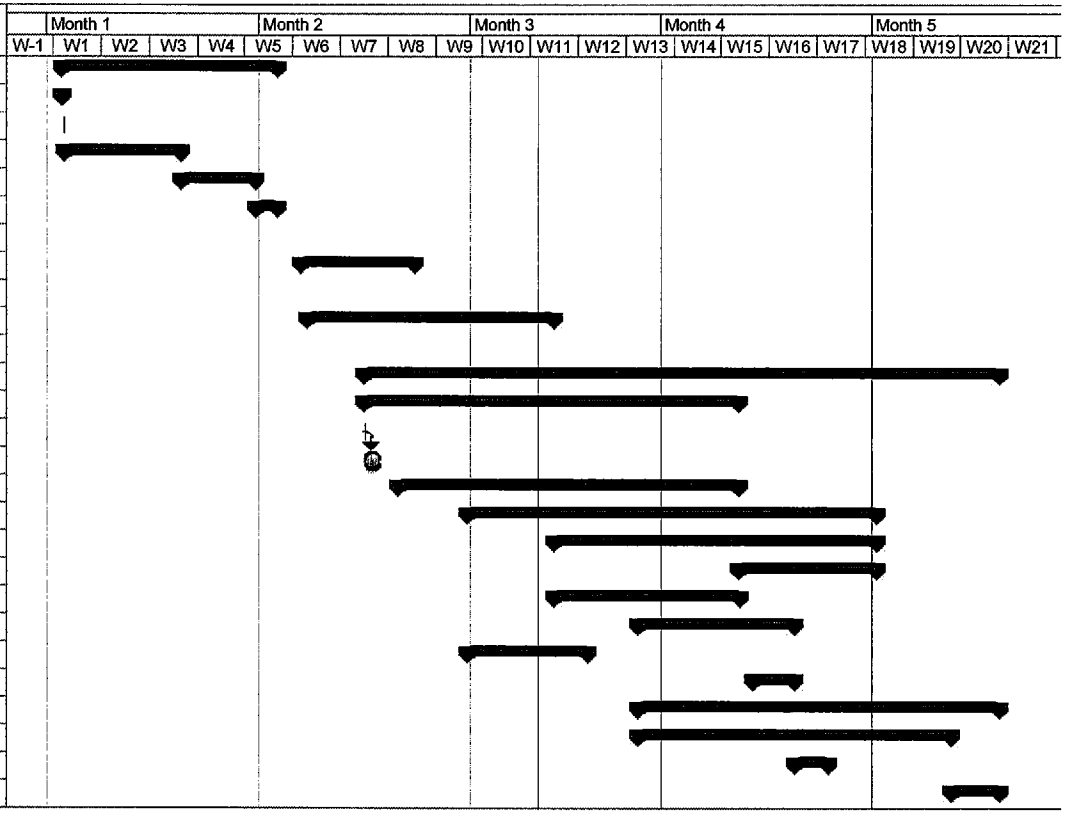
Task Assumptions

- None

Project Plan

Telvent proposes to perform this work according to the following project schedule and any agreed upon modifications:

ID	Task Name
1	1 Upgrade to ArcFM 10.1 and ArcGIS 10.1
2	1.1 Project Initiation
4	1.2 Data Model Review
5	1.3 Upgrade Telvent Custom Components
8	1.4 Deployment to Development Support
12	1.5 Deployment to Production Support
15	
16	2 ArcFM Server Implementation
23	
24	3 Fiber Manager Installation & Configuration
33	
34	4 Responder Implementation
35	4.1 Responder - Design Phase
36	4.1.1 Project Kickoff
37	4.1.2 Core Team Training
38	4.1.3 Integration Requirements
63	4.2 Responder - Develop Phase
64	4.2.1 Integration Development
65	4.2.1.1 IVR Integration Development
79	4.2.1.2 CIS Integration Development
93	4.2.1.3 SCADA Integration
107	4.2.2 Responder Configuration
130	4.2.3 Functional Review
132	4.3 Responder - Deploy Phase
133	4.3.1 Site Acceptance Test (SAT)
141	4.3.2 Responder Training
143	4.3.3 Responder Deployment Support



Services Quote

Date: 11-Feb-13
Quote Number: 2012-2003
To: DME

Receiving Party: DME
We are pleased to submit the following Fixed Price Quote for:
ArcFM Upgrade
and Optional Services for Responder, ArcFM Server, and Fiber Manager

PROPOSED SERVICES

TASK ID	TASK DESCRIPTION	COST
1	ArcFM Upgrade	$56,319.19
2	ArcFM Server for Silverlight Implementation	$25,734.92
3	Fiber Manager Implementation	$23,120.18
	Responder Implementation	
4.1	Rx Design	$20,540.26
4.2	Rx Develop	$44,433.26
4.3	Rx Deploy	$76,371.77
4.4	CIS Integration	$31,050.07
4.5	IVR Integration	$27,740.23
4.6	SCADA Integration	$36,813.86
	TOTAL SERVICES COSTS:	$342,123.75

OPTIONAL TASKS

		COST
	TOTAL OPTIONAL COSTS:	

Quote is valid for 60 days.

All rates and costs are quoted in US Dollars and will be billed in US Dollars.
Quote is inclusive of all travel and living expenses for on-site work.
All prices are based on Telvent Utilities Group's standards for services, and do not include duties, levies or fees.
This quotation is made in confidence for your review. It may not be disclosed to third parties, except as required by law.
This offer is limited to the terms and conditions of Telvent Utilities Group's Standard Services Agreement.
Estimate does not include the cost of any third party software required to perform the services.
THE PRICING CONTAINED IN THIS QUOTATION IS BASED UPON TUG'S STANDARD TERMS AND CONDITIONS AND TUG'S EXPERIENCE WITH SIMILAR PROJECTS. THE SCHEDULE AND PRICE ARE SUBJECT TO CHANGE BASED UPON THE TERMS AND CONDITIONS IN THE FINAL AGREEMENT.

Quote Provided by: Larry Frank

File 5225

Schneider Electric

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Contract No. 2013-404

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ARTICLE 10
SOFTWARE MAINTENANCE

Telvent offers a one-year complimentary maintenance period that begins seven days from the date of issue of the Software download password or of the license file(s), whichever is first. Software maintenance and support beyond the complimentary period is available at the option of Licensee as specified in Telvent's Software Maintenance and Support Policy (please see http://www.telvent-gis.com/support/maintenance.shtml for specific terms of reference.) Software maintenance and support, whether during the complimentary maintenance period or during another time period covered under a paid maintenance period, consists of Software and/or Related Materials, updates, and access to technical support and other benefits specified in the most current applicable Telvent Maintenance and Support Policy.

ARTICLE 11
LIMITATION OF LIABILITY

a. Disclaimer of Certain Types of General Liability. TELVENT SHALL IN NO EVENT BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; BUSINESS EXPENDITURES; INVESTMENTS; OR COMMITMENTS IN CONNECTION WITH ANY BUSINESS, LOSS OF ANY GOODWILL, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR USE OF THE SOFTWARE, OR RELATED MATERIALS, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT TELVENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

b. Limitation of Liability. IN NO EVENT SHALL TELVENT'S TOTAL CUMULATIVE LIABILITY HEREUNDER, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY,

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BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, EXCEED THE AMOUNTS PAID TO TELVENT BY LICENSEE FOR SOFTWARE AND/OR RELATED MATERIALS PURSUANT TO THIS AGREEMENT.

ARTICLE 12
INDEMNITY AGAINST INFRINGEMENT

a. Indemnification. Telvent, at its own expense, shall defend and indemnify Licensee from all claims that the Software and Related Materials furnished under this Agreement infringe a U. S. Copyright, provided that Licensee gives Telvent prompt written notice of such claims and permits Telvent the sole right to control the defense of all such claims and provides Telvent all reasonable cooperation.

b. Remedies. As to any Software and Related Materials that are or in the opinion of Telvent may become subject to a claim of infringement, Telvent, at its option, will obtain the right for Licensee to continue using the Software and Related Materials or replace or modify the Software and Related Materials so as to make them non-infringing. If neither of such alternatives is commercially practical, the infringing items shall be returned to Telvent and Telvent's sole liability shall be to refund license fees paid by Licensee prorated over a five (5) year period.

c. Alterations by Licensee. If Licensee extends, alters, modifies, or creates any derivative works of the Software and Related Materials or breaches this Agreement in any way, Telvent will not indemnify nor defend Licensee from any infringement claim resulting from the unauthorized modifications or alterations. Licensee, at its own expense, shall defend and indemnify Telvent from all claims, damages, legal fees, and costs of whatsoever kind or nature arising out of any infringement in connection with Licensees performance of such modification or alteration to the Software and Related Materials.

THIS SECTION STATES TELVENT'S ENTIRE OBLIGATION TO LICENSEE AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR COPYRIGHT INFRINGEMENT.

ARTICLE 13
CONFIDENTIALITY

a. Confidentiality Requirement. Licensee acknowledges that the Software and Related Materials constitutes the proprietary and confidential information of Telvent. Without the prior written approval of Telvent, Licensee shall not disclose any confidential information to any third party or allow any person to have access to the Software and Related Materials or any portion thereof except for such of its employees and Contractors who:

(i) need access to such information for purposes related to their employment with Licensee;
(ii) have been informed of the Licensee's obligation of confidence under this Agreement; and
(iii) are subject to either a binding and enforceable agreement with Licensee to be bound by such obligation of confidence or a written agreement of confidentiality directly with Telvent.

b. Exceptions. The obligations of this provision shall not apply to information:

Telvent Legal Reviewed

(i) which was in Licensee's possession without any obligation of confidentiality prior to the disclosure thereof by Telvent to Licensee and was not acquired by Licensee directly or indirectly from Telvent;
(ii) which is or later becomes a matter of public knowledge without any fault or negligence on the part of Licensee;
(iii) which Licensee receives without any obligation of confidentiality from a third party who is rightfully in possession of such information; or
(v) which Licensee is required by law to disclose.

c. Remedies for Breach. Licensee acknowledges and agrees that disclosure of any of the confidential information of Telvent would cause serious and irreparable harm to Telvent which could not adequately be compensated for in damages and, in the event of a breach, or an anticipated breach, by Licensee of any of the provisions of this Agreement, Licensee hereby consents to an injunction being issued against it restraining it from such anticipated breach or any further breach of such provision (as applicable), but such action shall not be construed so as to be in derogation of any other remedy which may be available in the event of such breach or anticipated breach. Licensee shall immediately notify Telvent of any unauthorized possession, use or knowledge of Telvent's confidential information which becomes known to a responsible officer of Licensee.

ARTICLE 14
GENERAL PROVISIONS

a. Export Regulations: Licensee acknowledges that this Agreement and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders relating to the export of computer software or know-how relating thereto. Telvent Software and Related Materials may be Technical Data under United States export laws. Licensee agrees to comply with all laws, regulations, and orders of the United States in regard to any export of such Technical Data. Licensee agrees not to disclose or re-export any Technical Data received under this Agreement in or to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Licensee has obtained prior written authorization from Telvent and the U. S. Office of Export Control.

b. Additional Software Licenses: Additional Software purchased by Licensee shall be governed by the terms and conditions of the Agreement and may be purchased without an amendment.

c. Severability: If any provision or portion of a provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected, and the remaining terms will continue in effect and be binding on the Parties, provided that such holding of invalidity or unenforceability does not materially affect the essence of the Agreement.

d. No Implied Waivers: No failure or delay by Telvent in enforcing any right or remedy under this Agreement shall be construed as a waiver of any future or other exercise of such right or remedy by Telvent.

e. Order of Precedence: Any conflict between the terms of this License Agreement and any Purchase Order or other terms shall be resolved in favor of the terms of this License Agreement.

Telvent Legal Reviewed

f. Governing Law: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado without reference to conflict of laws principles.

g. Entire Agreement and Amendments: This Agreement and the Attachments, which are incorporated by reference, constitute the sole and entire agreement of the parties as to the matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating hereto. Except as otherwise expressly provided herein, any Amendments to this Agreement must be in writing and signed by an authorized representative of each party. The attachments are as follows:

Exhibit 1 -- Registered Client Information

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

Signatures on next page

IN WITNESS WHEREOF, the City of Denton, Texas has executed this Agreement in four (4) original counterparts, by and through its duly-authorized City Manager; and Telvent USA LLC, a Delaware limited liability company, having executed this Agreement by and through its duly-authorized undersigned officer, on this the 26th day of July, 2013.

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:
~~EDWIN M. SNYDER~~, CITY ATTORNEY
Anita Burgess

By: _____

"CONSULTANT"

TELVENT USA LLC

By: _____
Drew Ditter

ATTEST:

By: _____

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EXHIBIT 1
Registered Client Information

Client Name:

_____

_____

Primary Contact:

_____

Mailing Address:

_____

_____

Email: _____

Telephone No.: _____

Fax No.: _____

Bill To:

_____

Address:

_____

_____

_____

Note: This will be assumed to be a taxable transaction unless the following documentation is provided upon execution of this license:

1. Direct Pay Certification No. _____ and a copy of the applicable state documentation, or
2. A copy of your Tax Exemption Certificate.

Ship Original Software To:

_____

_____

Address:

_____

_____

_____

Client's Contract Administrator's Name:

_____

Address:

_____

_____

_____

Telephone No.: _____

Fax No.: _____

Telvent Legal Reviewed

ADDENDUM 1
Responder Software License Addendum

Licensee and Telvent mutually desire to modify the Agreement to include the Responder Software Site License. Accordingly, this Addendum, when signed by Licensee and Telvent, shall constitute the following modifications to the Agreement.

For the purposes of this Agreement, and with respect to the Responder Software and Related Materials (Responder) only, "Licensee" includes City of Denton, Texas, a Texas Municipal Corporation and its Named Affiliates as identified below. The provisions of this License Agreement and its Addendum do not apply to any other Affiliate or entity. Licensee shall notify Telvent within a reasonable period after Licensee's acquisition of any company who Licensee intends to add to this Agreement pursuant to Articles 6 and 7 below.

ARTICLE 1
DEFINITIONS

The following definitions are added to the Agreement and are applicable to Responder only:

"Affiliate" means any commercial entity (including any entity acquired or created after the date of this Agreement) which, directly or indirectly, controls, or is controlled by, or is under common control with, Licensee. An entity shall be deemed to control another entity if such entity possesses, either directly or indirectly, the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract, or otherwise. Without limiting the foregoing, for purposes of this definition, beneficial ownership of 50% or more of the voting equity of an entity shall be deemed to constitute control of such entity. This Agreement shall only apply to Named Affiliates as described below. Licensee may have Affiliates not named in this Agreement, and for whom this Agreement does not apply. For the purposes of this Agreement, Named Affiliates are: NONE

"Site License" means a license to use software for its intended purpose to manage facilities, plant, and work processes owned by and within the current corporate boundaries of Licensee and its Named Affiliates. It provides authorization to install the software on all or some number of servers for a specified number of users at specified locations as well as make copies of the software for distribution within that jurisdiction. The Site License software is as described in the table below, and at the indicated price for purchase.

ARTICLE 4
SCOPE OF USE

The following provisions are in addition to those in Article 4 of the Software License Agreement and are applicable Responder only:

Permitted Uses. The license grant permits the Licensee to do only each of the following:

Telvent Legal Reviewed

- Licensee may use the Responder client Software and Related Materials for its internal business and commercial operations only, limited to the normal electric only outage management and operational tasks for which it is intended.

Uses Not Permitted. The Licensee has no rights to:

- Licensee may not use Responder client Software for production data maintenance, mapping, or viewing tasks normally executed through the use of ArcFM or ArcFM Viewer

Such limits shall apply to use of either a portion of or the entire Software or Related Materials.

Use By Contractors: A contractor of Licensee ("Contractor"), may be permitted to use one or more of the licenses for the Software under the following terms and conditions:

- The term Contractor refers to a person, not an employee of Licensee, which is contracted by Licensee and authorized to perform construction or other work on Licensee's behalf. No Contractor shall be an organization engaged in the development, licensing or implementation of a GIS design tool software product or Outage Management software product unless express written consent is obtained in advance from Telvent.

ARTICLE 6
ASSIGNMENT

The following provision supersedes Article 6 of the Software License Agreement for the governance of Responder only:

Upon written approval from Telvent, Licensee may assign its rights and obligations hereunder to the other/s affiliate company provided such affiliate company agrees, in writing, to assume such Licensee's rights and obligations under the Agreement. The affiliate company to which the assignment is made will be responsible for payment of any addition in the site license fee, as provided in Article 7 below. As of the effective date of such assignment, the assigning Licensee shall have no further rights, obligations or liability pursuant to this Agreement except its obligation to maintain the confidentiality of the Software and Related Materials.

ARTICLE 7
MERGER OR ACQUISITION

The following provision is added to Article 7 of the Software License Agreement for governance of Responder only:

Pricing and Payment. Should merged or acquired affiliate companies, or current or future affiliate companies not named in this Agreement, elect to participate in the Software site license granted hereunder, an equitable adjustment of the site license fee will be made to accommodate the increase in number of copies of Software required. License fees will be billed upon receipt of Software.

Telvent Legal Review

Except as modified by this Addendum all other terms in the Agreement and any other previous modifications to the Agreement are incorporated herein by this reference and remain unchanged unless modified by a separate signed modification agreement.

IN WITNESS WHEREOF, the City of Denton, Texas has executed this Agreement in four (4) original counterparts, by and through its duly-authorized City Manager; and Telvent USA LLC, a Delaware limited liability company, having executed this Agreement by and through its duly-authorized undersigned officer, on this the 26th day of July, 2013.

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:
~~EDWIN M. SNYDER~~, CITY ATTORNEY
Anita Burgess

By: _____

"CONSULTANT"

TELVENT USA LLC

By: _____
Drew Dittar

ATTEST:

By: _____

Telvent Legal Reviewed

File 5225

TELVENT USA LLC
SMALL UTILITY
ENTERPRISE LICENSE AGREEMENT

Contract No. 2013-402

This Small Utility Enterprise License Agreement is a License Agreement and not an Agreement for Sale. This Enterprise License Agreement (ELA) is between City of Denton, Texas, a Texas Municipal Corporation (Licensee), whose address is given in Exhibit 1, Registered Licensee Information annexed hereto, and Telvent USA LLC (Telvent) and is effective (Effective Date) as of the date of signature of this ELA and receipt of Licensee's Purchase Order citing this signed ELA. The ELA grants Licensee certain limited rights to use specific proprietary Telvent Enterprise Software and Related Materials (Software and Related Materials) and receive maintenance and support over a limited, fixed period of time from the Effective Date of this ELA. All rights not specifically granted in this ELA are reserved to Telvent.

This ELA constitutes the sole and entire agreement of the parties as to the subject matter set forth herein. This ELA supersedes any different or additional terms or conditions in or with any Licensee Purchase Order and the terms of this ELA shall govern.

This ELA supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the software listed in Exhibit 1, which is the licensing of the Enterprise Software. All other software shall continue to be licensed under the existing Software License Agreement (Contract No. 2003-CoServ) with Telvent. Except as provided in Article 12.b, any modifications or amendments to this ELA must be in writing and signed by an authorized representative of each party.

ARTICLE 1
DEFINITIONS

As used herein, the following words, phrases or terms in this ELA shall have the following meanings:

"Deploy", "Deployed", or "Deployment" means to redistribute and install or the redistribution and installation of the Enterprise Software or its having been redistributed and installed by Licensee on Licensee's hardware.

"Enterprise Software" means the actual copy of all or any portion of the computer programs delivered, inclusive of backups, updates or merged copies of the specific Telvent software products identified in Exhibit 2.

"ELA Fees" means the fees set forth in Exhibit 3, ELA Fee Schedule.

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"Hardware Key/License Manager" means the device and/or software program that administers the distribution of the licensed number of Enterprise Software copies of requesting end users.

"Licensed Configuration" means the Licensee's specific computer networks and/or computer systems which are licensed to use the Software, as designated through the internet website url: http://www.telvent-gis.com/support/download_form.shtml.

"Related Materials" means all of the printed materials, user and specification documentation, training documentation, and other material, if any, specifically identified for use in conjunction with the confidential Enterprise Software supplied by Telvent under this ELA.

ARTICLE 2
GRANT OF LICENSE AND RESERVATION OF OWNERSHIP

a. Grant of License and Retention of Rights. Telvent hereby grants to Licensee a limited term, personal, non-exclusive, nontransferable license to use the Enterprise Software and Related Materials pursuant to the terms and conditions of this ELA. From the date of receipt, Licensee agrees to protect the Enterprise Software and Related Materials from any unauthorized use, reproduction, distribution or publication. Telvent retains exclusive title and ownership of any copy of the Enterprise Software and Related Materials licensed under this ELA.

b. License Management. Telvent employs a License Manager to limit use of the licensed Enterprise Software to specific computer networks and/or computer systems. As each configuration of computer networks and/or computer systems may be unique, Licensee agrees to conform its use of the Enterprise Software to the Licensed Configuration. The Licensed Configuration is incorporated herein by this reference, inclusive of any written modifications approved by Telvent. Licensee is required to update its Licensed Configuration to reflect current use of Enterprise Software for license management purposes.

c. Audit. The terms and conditions in this Small Utility ELA offer are for utilities with a total customer count that falls between 10,001 and 50,000. By entering into this Agreement, Licensee confirms its organization's customer count falls within this range. During the term of this ELA, Telvent or its designated agent may inspect Licensee's facilities and records to verify Licensee's compliance with this ELA. Any such inspection will take place only during Licensee's normal business hours and upon no less than ten (10) days prior written notice from Telvent. Telvent will give Licensee written notice of any non-compliance with the Licensed Configuration.

ARTICLE 3
COPYRIGHT

The Enterprise Software and Related Materials are owned by Telvent and are protected by United States copyright laws and applicable international treaties and/or conventions. Licensee may not export the Enterprise Software and Related Materials into a country that does not have copyright laws that will protect Telvent's proprietary rights.

ARTICLE 4
SCOPE OF USE

a. Permitted Uses. The license grant permits the Licensee to do only each of the following:

- Licensee may install the Enterprise Software onto the computer systems designated by the Licensed Configuration.
- Licensee may use the Enterprise Software and Related Materials for its internal business and commercial operations only.
- Licensee may access and use any secure Telvent website resources made available to Licensee for Licensee's internal use only, provided that Licensee follows Telvent's terms of use policy specified therein. All password or controlled access information provided by Telvent shall be treated as Telvent Confidential Information.
- Licensee may make only one copy of the Enterprise Software for archival and disaster recovery purposes unless the right to make additional copies is granted to Licensee in writing by Telvent.

b. Uses Not Permitted. The Licensee has no rights to:

- Licensee may not sell, rent, lease, sublicense, lend, time-share or transfer, in whole or in part, or provide unlicensed Third Parties access to prior or present versions of the Enterprise Software and Related Materials, any updates, or Licensee's rights under this ELA.
- Licensee may not reverse engineer, decompile or disassemble the Software, or make any attempt to unlock or bypass the License Manager.
- Licensee may not alter, modify or create any derivative works of the Enterprise Software and/or Related Materials.
- Licensee may not make additional copies of the Enterprise Software and/or Related Materials.
- Licensee may not remove or obscure any copyright or trademark notices from the Enterprise Software and/or Related Materials.

c. Use By Contractors: A contractor of Licensee ("Contractor"), may be permitted to access the Enterprise Software under the following terms and conditions.

- The term "Contractor" refers to a person, not an employee of Licensee, which is contracted by Licensee and authorized to perform construction or other work on Licensee's behalf. No Contractor shall be an organization engaged in the development, licensing or implementation of a GIS design tool software product unless express written consent is obtained in advance from Telvent.

- No licensing rights will be provided to the Contractor. The license will remain licensed to the Licensee. When its Contractors use the Enterprise Software, Licensee will be responsible for ensuring a Contractor's use of the Enterprise Software in accordance with the terms of this ELA, and shall solely liable for any misuse of the Enterprise Software by Contractor.

- Any Contractor permitted to use the Enterprise Software by Licensee will use it for the sole benefit of Licensee, and only while working on-site at Licensee's facilities or by remotely accessing the Enterprise Software from Licensee's on-site computers or machines. The Enterprise Software may not be used by the Contractor to perform work for any other Licensee.

- Licensee will keep a written record of which Contractors are using the Enterprise Software. Telvent may audit these records upon request, provided that such audits may not unreasonably interfere with Licensee's business and shall occur only during Licensee's normal hours of operation.

- If a Contractor that is using the Enterprise Software ceases to perform work for Licensee, then Licensee will ensure that the Contractor discontinues use of and access to the Enterprise Software.

Such limits shall apply to use of either a portion of or the entire Enterprise Software or Related Materials.

ARTICLE 5
PAYMENT

Fees for the Enterprise Software and Related Materials (the "ELA Fees") will be identified in Exhibit 3. ELA Fees are stated in United States Dollars, must be paid in United States Dollars, and, unless otherwise specified in writing, do not include out-of-pocket expenses or shipping costs. Licensee will pay all ELA Fees and expenses, if any, no later than thirty (30) days from the date of an invoice. All ELA Fees are exclusive of Taxes. Licensee will pay Telvent an amount equal to any Taxes arising from or relating to this ELA which are paid by or are payable

by Telvent. "Taxes" means any form of sales, use, value added or other form of taxation and any fines, duties, fees, penalties, surcharges or interest, but excluding any taxes based solely on the net income of Telvent.

ARTICLE 6
TERM, TERMINATION, AND RENEWAL

a. Term: The license granted by this ELA is for a term of three (3) years from the Effective Date, unless this ELA is terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software Deployed shall be concurrent with the term of this ELA. No indefinite or perpetual term license grants are provided with this ELA.

b. Termination By Government Entity: For Government owned utilities only, either party may terminate this ELA for Lack of Funds. Lack of Funds is the inability of Licensee to secure appropriation of funds through the legislative or governing body's approval process for annual payments due.

c. Termination For Cause: Either party may termination this ELA for a material breach by the other party. The breaching party shall be given a period of ten (10) days from the date of written notice to cure any material breach. Notwithstanding the foregoing, the parties agree that any breach of this ELA may cause irreparable damage and that, in the event of such breach, in addition to any and all remedies at law, Telvent shall have the right to seek an injunction, specific performance, or other equitable relief in any court of competent jurisdiction.

d. Termination for Convenience. Should Licensee terminate this ELA for convenience, Licensee will be required to continue paying the ELA Fees for the remainder of the ELA.

e. Effect of Termination or Expiration: Upon expiration or termination of this ELA, all Enterprise Software Deployed shall terminate. Licensee shall cease access and use of the Enterprise Software and uninstall, remove, and destroy all Deployed Enterprise Software and any whole or partial copies, modifications, media, or merged portions in any form and execute and deliver evidence of such actions to Telvent. All Enterprise Software maintenance services shall also terminate.

f. Renewal: Upon expiration of this ELA, the parties will evaluate Licensee's requirements. Any renewal ELA will be offered in accordance with license terms and conditions and pricing then in effect and based upon Licensee's then current meter count.

ARTICLE 7
ASSIGNMENT

Licensee shall not assign this ELA or Licensee's rights hereunder without the prior written consent of Telvent. Any purported assignment without such consent shall be null and void.

ARTICLE 8
MERGER, DIVESTITURE OR ACQUISITION

a. Merger or Acquisition. Should Licensee acquire, be acquired by, or merge with another business entity after the date of execution of this License, Licensee shall promptly provide written notice to Telvent. Any entities merged with or acquired by Licensee may join the ELA as additional users upon mutual written agreement of the parties only if the new cumulative meter count does not exceed the maximum meter count to qualify for the Small Utility ELA program. If the new cumulative meter count moves Licensee into a higher pricing tier within the Small Utility ELA program, an increase in the ELA Fees will be negotiated by the parties. If the new cumulative meter count exceeds the limit for the Small Utility ELA program, this ELA shall be considered terminated and a new pricing model shall be negotiated and applied.

b. Divestiture. Should any portion of the Licensee's organization be sold or divested, all Enterprise Software and/or Related Materials used by the divested entity must either be uninstalled or transferred to the Licensee in a prompt manner. If the divested entity wishes to continue using any portion of the Enterprise Software, Telvent and the divested entity shall enter into a mutually agreed upon agreement between the parties. Additional fees shall apply to the continued use of the Enterprise Software by the divested entity.

ARTICLE 9
LIMITED WARRANTY AND DISCLAIMER

a. Limited Warranty. Telvent warrants that the unaltered Enterprise Software and media, under normal use, will conform substantially to the Related Materials and will be free from defects in materials and workmanship for a period of ninety (90) days from the date of issue of the software download password or of the license file(s), whichever is first.

b. General Disclaimer. EXCEPT FOR THE EXPRESS LIMITED WARRANTY ABOVE, Telvent DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE ENTERPRISE SOFTWARE AND RELATED MATERIALS.

c. Data Disclaimer. LICENSEE ASSUMES ALL RESPONSIBILITY FOR THE QUALITY AND ACCURACY OF DATA USED IN CONJUNCTION WITH THE SOFTWARE LICENSED UNDER THIS ELA. TELVENT MAKES NO WARRANTY WITH RESPECT TO THE DATA. Without limiting the generality of the preceding sentence, Telvent does not warrant that the data will meet Licensee's needs or expectations, the use of the data will be uninterrupted, or that all nonconformities can or will be corrected. Licensee should always verify its data including, but not limited to, map, spatial, raster, and tabular information, against its own records.

d. Internet Disclaimer. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE INTERNET IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS, AND THAT (i) THE INTERNET IS NOT A SECURE INFRASTRUCTURE, (ii) THE PARTIES HAVE NO CONTROL OVER THE INTERNET, AND (iii) NONE OF THE PARTIES SHALL BE LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE WEB SERVICES.

e. Exclusive Remedy. During the warranty period, Telvent's entire liability and Licensee's exclusive remedy shall be, at Telvent's option, to attempt to correct or work around errors, to replace the Enterprise Software and Related Materials in accordance with the Telvent Maintenance and Support Policy, or to return the license fees paid and terminate the ELA upon the Licensee uninstalling and returning the Enterprise Software and Related Materials to Telvent with a copy of Licensee's receipt.

ARTICLE 10
ENTERPRISE SOFTWARE MAINTENANCE

ELA Maintenance for Enterprise Software provided under this ELA is included with the ELA Fee. ELA Maintenance consists of Enterprise Software and/or Related Materials, updates, and access to technical support and other benefits specified in the Telvent Maintenance Support Services Policy (please see http://www.telvent-gis.com/support/maintenance.shtml for specific terms of reference), as modified by this Article 9. Notwithstanding the foregoing, any terms and conditions included in the Maintenance Support Services Policy, especially those related to price, term and renewal, that differ from those contained herein, shall not apply to the ELA Maintenance. This ELA takes precedence over the Maintenance Support Services Policy.

- **Tier 1 Support Provided by Licensee**

(1) Licensee shall provide Tier 1 Support through the Tier 1 Help Desk to all Licensees authorized users.
(2) The Tier 1 Help Desk shall use analysts fully trained in the Enterprise Software they are supporting.
(3) At a minimum, Tier 1 Support shall include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
(4) Tier 1 Support analysts shall be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from the Licensee. This may include obtaining any customizations, code samples, or data involved, if applicable, to the Incident. The analyst shall also use any other information and databases it may develop to satisfactorily resolve Incidents.

(5) If the Tier 1 Help Desk can not resolve the Incident, an authorized Tier 1 Help Desk individual may contact Telvent Technical Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensees.
(6) Tier 1 Help Desk individuals identified by Licensee are the only individuals authorized to contact Telvent directly for Tier 2 Support. Licensee may revise named individuals by written notice.

- **Tier 2 Support Provided by Telvent**

(1) Telvent shall log the calls received from the Tier 1 Help Desk individuals.
(2) Telvent shall attempt to resolve the Incidents by assisting the Tier 1 Help Desk individuals.
(3) When the Incident is resolved, Telvent shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to the Licensee.
(4) Telvent may, at Telvent's sole discretion, make patches, hot fixes, or updates available for downloading from Telvent's web site or deliver them on via email.

ARTICLE 11
LIMITATION OF LIABILITY

a. Disclaimer of Certain Types of General Liability. Telvent SHALL IN NO EVENT BE LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; BUSINESS EXPENDITURES; INVESTMENTS; OR COMMITMENTS IN CONNECTION WITH ANY BUSINESS, LOSS OF ANY GOODWILL, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS ELA OR USE OF THE ENTERPRISE SOFTWARE, OR RELATED MATERIALS, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT Telvent HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

b. Limitation of Liability. FOR ALL EVENTS AND CIRCUMSTANCES, Telvent'S TOTAL CUMULATIVE AND AGGREGATE LIABILITY ARISING OUT OF THIS ELA, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, MISREPRESENTATION, OR OTHERWISE, WILL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED THE AMOUNTS PAID TO Telvent DURING THE TWELVE (12) MONTHS PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY.

ARTICLE 12
INDEMNITY AGAINST INFRINGEMENT

a. Indemnification. Telvent, at its own expense, shall (i) defend Licensee against a Claim and (ii) pay costs, damages and/or attorneys fees that are included in a final judgment against Licensee (without right of appeal) or in a settlement approved by Telvent that are attributable to an unaffiliated third party's claim that the Enterprise Software and Related Materials furnished under this ELA infringe a U. S. Copyright ("Claim"). As conditions precedent to Telvent's obligations to Licensee under Article 12a., Licensee must comply with the following conditions. Licensee must (1) notify Telvent promptly, but in no event later than ten (10) days of receipt of any Claim for which relief is sought under this ELA (including evidence of the Claim brought); (2) provide Telvent with the right to control and conduct the defense of the Claim with counsel of its choice and to settle such Claim at Telvent's sole discretion; and (3) cooperate with Telvent in the defense of the Claim.

b. Remedies. As to any Enterprise Software and Related Materials that are or in the opinion of Telvent may become subject to a claim of infringement, Telvent, at its option, will obtain the right for Licensee to continue using the Enterprise Software and Related Materials or replace or modify the Enterprise Software and Related Materials so as to make them non-infringing. If Telvent determines that neither remedy is commercially practical, then Telvent may terminate the ELA without further liability under this paragraph, and if the infringing items are returned to Telvent, Licensee shall be refunded the ELA fees, prorated over a three year period.

c. Alterations by Licensee. If Licensee extends, alters, modifies, or creates any derivative works of the Enterprise Software and Related Materials or breaches this ELA in any way, Telvent will not indemnify nor defend Licensee from any infringement claim resulting from any of these modifications or alterations. Licensee, at its own expense, shall defend and indemnify Telvent from all claims, damages, legal fees, and costs of whatsoever kind or nature arising out of any infringement in connection with Licensees performance of such modification or alteration to the Enterprise Software and Related Materials.

THIS SECTION STATES Telvent'S ENTIRE OBLIGATION TO LICENSEE AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR COPYRIGHT INFRINGEMENT.

ARTICLE 13
GENERAL PROVISIONS

a. Export Regulations: Licensee acknowledges that this ELA and the performance thereof are subject to compliance with any and all applicable United States laws, regulations, or orders relating to the export of computer software or know-how relating thereto. Telvent Enterprise Software and Related Materials may be Technical Data under United States export laws. Licensee agrees to comply with all laws, regulations, and orders of the United States in regard to any export of such Technical Data. Licensee agrees not to disclose or re-export any Technical Data received under this ELA in or to any countries for which the United States government requires an export license or other supporting documentation at the time of export or transfer, unless Licensee has obtained prior written authorization from Telvent and the U. S. Office of Export Control.

b. Future Versions: Updated or new Enterprise Software may require additional or revised terms and conditions. Telvent will provide notice of the revisions to Licensee in writing. The revisions shall be incorporated into this ELA upon such written notice to Licensee. Should Licensee reject the revisions, then Licensee shall not install or use the revised, updated, or new Enterprise Software.

c. OEM Licenses: If Licensee obtains Software or Related Materials or any component thereof as part of an original equipment manufacturer (OEM) software program or product developed and licensed by an OEM business partner of Telvent, Licensee shall not be entitled to or seek any discount from the OEM business partner or Telvent, directly or indirectly, as a result of or based on the availability of such Software or Related Materials, as Enterprise Software under this ELA. In addition, such Software and Related Materials, or any component thereof included in the OEM software program or product will be licensed through the license agreement provided by the OEM business partner and not through this ELA.

d. Product Obsolescence. During the term of this ELA, some Enterprise Software items may become obsolete, may no longer be commercially offered, or may no longer be available for unlimited quantity Deployment. Licensee may continue to use such Enterprise Software that has been Deployed for the term of the ELA, but updates for such obsolete Enterprise Software may not be available. Telvent's Product Life Cycle Support Policy, available at http://www.telvent-gis.com/support/SupportLifeCycleandPolicy.pdf defines the support phases and overall support plans. ELA Maintenance shall be subject to the Product Life Cycle Support Policy.

e. Purchase Orders: Licensee shall issue a Purchase Order upon execution of the ELA and annually thereafter in accordance with the payment schedule. Payment shall be due and payable within thirty (30) days of the anniversary date of the Effective Date, with the initial payment due within thirty (30) days of execution of the ELA. All Purchase Orders shall include the following language "THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE Telvent SMALL UTILITY ELA, AND ANY DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS IN OR WITH THIS PURCHASE ORDER SHALL NOT APPLY".

f. Endorsement and Publicity: This ELA shall not be construed or interpreted as an exclusive dealings agreement or an endorsement of Telvent by Licensee. Licensee agrees that upon execution of this ELA, Telvent may publicize the existence of this ELA with Licensee.

g. Severability: If any provision or portion of a provision of this ELA is held invalid or unenforceable, the remainder of the ELA shall not be affected, and the remaining terms will continue in effect and be binding on the Parties, provided that such holding of invalidity or unenforceability does not materially affect the essence of the ELA.

h. No Implied Waivers: No failure or delay by Telvent in enforcing any right or remedy under this ELA shall be construed as a waiver of any future or other exercise of such right or remedy by Telvent.

i. Order of Precedence: Any conflict between the terms of this ELA and any Purchase Order or other terms shall be resolved in favor of the terms of this ELA.

j. Governing Law: This ELA, entered into in the County of Larimer, shall be construed and enforced in accordance with, and be governed by, the laws of the State of Colorado without reference to conflict of laws principles. The parties hereby consent to the personal jurisdiction of the courts of this county and waive their rights to change venue.

k. Survival. If this ELA is terminated for any reason, Articles 2, 3, 5, 9b, and 11 of this ELA will survive such termination.

l. Entire Agreement and Amendments: This ELA and the Attachments, which are incorporated by reference, constitute the sole and entire agreement of the parties as to the matter set forth herein and supersedes any previous agreements, understandings, and arrangements between the parties relating hereto. Except as otherwise expressly provided herein, any Amendments to this ELA must be in writing and signed by an authorized representative of each party. The attachments are as follows:

Exhibit 1 -- Registered Client Information
Exhibit 2 – Enterprise Software
Exhibit 3 – ELA Fees Schedule

IN WITNESS WHEREOF, the parties hereto have executed this ELA to be effective, valid, and binding upon the parties as of the date below as executed by their duly authorized representatives.

IN WITNESS WHEREOF, the City of Denton, Texas has executed this Agreement in four (4) original counterparts, by and through its duly-authorized City Manager; and Telvent USA LLC, a Delaware limited liability company, having executed this Agreement by and through its duly-authorized undersigned officer, on this the 26th day of July, 2013.

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:
~~EDWIN M. SNYDER~~, CITY ATTORNEY
Anita Burgess

By: _____

"CONSULTANT"

TELVENT USA LLC

By: _____ Drew Dotter

ATTEST:

By: Heather Hansen Heather Hansen

EXHIBIT 1
Registered Client Information

Client Name:

_____

_____

Primary Contact:

_____

Mailing Address:

_____

_____

Email: _____

Telephone No.: _____

Fax No.: _____

Bill To:

_____

Address:

_____

_____

_____

Note: This will be assumed to be a taxable transaction unless the following documentation is provided upon execution of this license:

1. Direct Pay Certification No. _____ and a copy of the applicable state documentation, or

2. A copy of your Tax Exemption Certificate.

Ship Original Software To:

_____

_____

Address:

_____

_____

_____

Client's Contract Administrator's Name:

_____

Address:

_____

_____

_____

Telephone No.: _____

Fax No.: _____

EXHIBIT 2
Enterprise Software

The ELA includes unlimited quantities of the following Telvent proprietary software:

- ArcFM
- ArcFM Viewer
- Designer
- Designer Staker
- Designer Express
- Conduit Manager
- Network Adapter
- Fiber Manager
- ArcFM Viewer with Redliner
- ArcFM Viewer with Inspector
- ArcFM Server Standard
- ArcFM Geodatabase Manager

Any additional Telvent software that is not included in the list above that Licensee wishes to obtain during the term of this ELA, whether such software exists at the time of signing this ELA or not, shall be available to Licensee under a separate agreement and at an additional price.



Exhibit 3
ELA Fees Schedule

Licensee shall pay the following ELA Fees for the duration of the agreement. Payment for each year shall be due within 30 days of reciept of an invoice from Telvent.

	Year 1	Year 2	Year 3	Total
Total Annual Fee	$25,000	$25,000	$25,000	$75,000

Telvent
Legal Reviewed

ORDINANCE NO. 2016-322

AN ORDINANCE OF THE CITY OF DENTON, TEXAS PROVIDING FOR, AUTHORIZING, AND APPROVING THREE (3) YEAR SOFTWARE MAINTENANCE FOR CONTINUED VENDOR SUPPORT OF THE DENTON MUNICIPAL ELECTRIC (DME) ARCFM SOLUTION AND ASSOCIATED SOFTWARE MODULES ALONG WITH NEW HARDWARE AND SOFTWARE UPGRADES, WHICH IS AVAILABLE FROM ONLY ONE SOURCE AND IN ACCORDANCE WITH CHAPTER 252.022 OF THE TEXAS LOCAL GOVERNMENT CODE SUCH PURCHASES ARE EXEMPT FROM THE REQUIREMENTS OF COMPETITIVE BIDDING; AND PROVIDING AN EFFECTIVE DATE (FILE 5770 AWARDED TO TELEVENT USA, LLC FOR A THREE (3) YEAR NOT-TO-EXCEED AMOUNT OF $129,401).

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; and need not be submitted to competitive bids; 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, are hereby approved:

FILE NUMBER	VENDOR	AMOUNT
5770	Televent USA, LLC	$129,401

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; and 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 is hereby authorized to execute any contracts relating to the items specified in Section 1 and the expenditure of funds pursuant to said contracts is hereby authorized.

SECTION 5. The City Council of the City of Denton, Texas hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under File 5770 to the City Manager of the City of Denton, Texas, or his designee.

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

PASSED AND APPROVED this the 18 day of October, 2016.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: Jennifer Walters

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY:

Schneider Electric

Any additional Telvent software that is not included in the list above that Licensee wishes to obtain during the term of this ELA, whether such software exists at the time of signing this ELA or not, shall be available to Licensee under a separate agreement and at an additional price.

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following.

Licensee shall pay the following ELA Fees for the duration of the Agreement. Payment for each year shall be due within 30 days of receipt of an invoice from Telvent.

	Year 1 November 1, 2016 – October 31, 2017	Year 2 November 1, 2017 – October 31, 2018	Year 3 November 1, 2018 – October 31, 2019	Total
Total Annual Fee	$28,000	$28,000	$28,000	$84,000

All terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: _____

Printed Name: ELTON D. BROCK

Title: PURCHASING & MATERIALS MANAGEMENT MANAGER

Date: _____

Telvent USA, LLC

Signature: _____

Printed Name: _____

Title: _____

Date: OCTOBER 27, 2016

Reviewed WR

EXHIBIT 1

Schneider Electric

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 1

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee") and Telvent USA LLC ("Telvent"), Contract No. 2013-402, the parties hereby wish to amend the Agreement for the purpose of renewing the Agreement for an additional three-year period. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal
The paragraph a. of Article 6 shall be deleted and replaced with the following provision.

a. **Term:** The license granted by this ELA Amendment 1 is for a period of three (3) years from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the Effective Date for Year 1 under this Amendment 1 is August 1, 2016.

Article 13, General Provisions
The paragraph l. of Article 13 references Exhibit 2 – Enterprise Software and Exhibit 3 – ELA Fees Schedule.

Exhibit 2 – Enterprise Software, shall be deleted and replaced with the following.

The ELA includes unlimited quantities of the following Telvent proprietary software:

- ArcFM
- ArcFM Viewer
- Designer
- Designer Express
- Conduit Manager
- Network Adapter
- Fiber Manager
- ArcFM Viewer with Redliner
- ArcFM Viewer with Inspector
- ArcFM Server Standard
- ArcFM Geodatabase Manager

Reviewed VR

DocuSign Envelope ID: 4712C5A3-D819-43AC-AB80-8D6D8CC1BEE2

Schneider Electric

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 2

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee"), and Telvent USA, LLC ("Telvent"), Contract No. 2013-402, the parties hereby wish to amend the Agreement for the purpose of extending Year 3 for an additional two months. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal
The paragraph a. of Article 6 shall be deleted and replaced with the following provision, with changes shown in italics.

a. **Term:** The license granted by this ELA Amendment 1 is for a period of *thirty-eight (38) months* from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the Effective Date for Year 1 under this Amendment 1 is August 1, 2016.

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following, with changes shown in italics.

Licensee shall pay the following ELA Fees for the duration of the Agreement. Payment for each year shall be due within 30 days of receipt of an invoice from Telvent.

	Year 1 ~~November 1, 2016 – October 31, 2017~~ OCTOBER SEPTEMBER 30	Year 2 ~~November 1, 2017 – October 31, 2018~~ OCTOBER SEPTEMBER 30	Year 3 ~~November~~ OCTOBER ***November 30, 2019***	Total
Total Annual Fee	$28,000	$28,000	*$32,667*	*$88,667*

CA 8/8/18

All terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Signatures to follow on next page

DocuSign Envelope ID: 4712C5A3-D819-43AC-AB80-8D6D8CC1BEE2

Schneider Electric

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: DocuSigned by: Cindy Alonzo EB6CC3C4BEF0496...

Printed Name: Cindy Alonzo

Title: Senior Buyer

Date: 8/7/2018

Telvent USA, LLC

Signature: DocuSigned by: Drew Ditter EC383CF0AA914F4...

Printed Name: Drew Ditter

Title: Director of Operations

Date: 8/8/2018

DocuSign SECURED

Certificate Of Completion

Envelope Id: 4712C5A3D81943ACAB808D6D8CC1BEE2
Status: Completed
Subject: Please DocuSign: Amendment No 2-Schneider_Telvent Software Lic Agr 2013-402 .pdf
Source Envelope:
Document Pages: 2
Signatures: 2
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Cindy Alonzo
901B Texas Street
Denton, TX 76209
Cynthia.Alonzo@cityofdenton.com
IP Address: 129.120.6.150

Record Tracking

Status: Original
8/7/2018 3:49:00 PM
Holder: Cindy Alonzo
Cynthia.Alonzo@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Cindy Alonzo cynthia.alonzo@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None)	DocuSigned by: Cindy Alonzo EB6CC3C4BEF0496... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 8/7/2018 3:52:59 PM Viewed: 8/7/2018 3:53:06 PM Signed: 8/7/2018 3:53:17 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Drew Ditter drew.ditter@schneider-electric.com Director of Operations Security Level: Email, Account Authentication (None)	DocuSigned by: Drew Ditter EC383CF0AA914F4... Signature Adoption: Pre-selected Style Using IP Address: 198.202.137.38	Sent: 8/7/2018 3:53:18 PM Viewed: 8/8/2018 7:56:41 AM Signed: 8/8/2018 7:56:56 AM
Electronic Record and Signature Disclosure: Accepted: 8/8/2018 7:56:41 AM ID: e1cabbc5-8c50-46d3-b896-1289527c7026		
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**
Lisa Clark Lisa.Clark@schneider-electric.com Security Level: Email, Account Authentication (None)	COPIED	Sent: 8/8/2018 7:56:57 AM Viewed: 8/8/2018 8:00:06 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Sandra Allsup Sandra.Allsup@cityofdenton.com Security Level: Email, Account Authentication (None)	COPIED	Sent: 8/8/2018 7:56:57 AM Viewed: 8/8/2018 7:57:57 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/8/2018 7:56:57 AM
Certified Delivered	Security Checked	8/8/2018 7:56:57 AM
Signing Complete	Security Checked	8/8/2018 7:56:57 AM
Completed	Security Checked	8/8/2018 7:56:57 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 20-498

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A THIRD AMENDMENT TO A SOLE SOURCE AGREEMENT BETWEEN THE CITY OF DENTON AND TELVENT USA, LLC, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON MAY 7, 2013, IN THE NOT-TO-EXCEED AMOUNT OF $491,813.75; AMENDED BY AMENDMENTS 1-2 APPROVED BY PURCHASING; SAID THIRD AMENDMENT TO PROVIDE CONTINUED VENDOR SUPPORT OF THE DENTON MUNICIPAL ELECTRIC (DME) ARCFM SOLUTION AND ASSOCIATED SOFTWARE MODULES ALONG WITH NEW HARDWARE AND SOFTWARE UPGRADES; WHICH IS THE SOLE PROVIDER OF THIS SOFTWARE, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5770 – PROVIDING FOR AN ADDITIONAL THREE (3) YEAR TERM AND THIRD AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $142,000, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $722,980.75).

WHEREAS, on May 7, 2013, by Ordinance No. 2013-118, the City awarded a contract to Telvent USA, LLC in the amount of $491,813.75 for the DME GIS Upgrade to Version 10.2.1a; and

WHEREAS, the additional fees under the proposed Third Amendment are fair and reasonable and are consistent with and not higher than the recommended practices and fees applicable to the Provider's profession and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Third Amendment, increasing the amount of the contract between the City and Telvent USA, LLC, which is on file in the office of the Purchasing Agent, in the amount of One Hundred Forty-Two Thousand Five Hundred and 00/100 ($142,500) Dollars, is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment. The total contract amount increases to $722,980.75.

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; and 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 is hereby authorized to execute any contracts relating to the items specified in Section 1 and the expenditure of funds pursuant to said contracts 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 his designee.

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

The motion to approve this ordinance was made by KEELY BRIGGS and seconded by JOHN RYAN, the ordinance was passed and approved by the following vote [5 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	✓			
Gerard Hudspeth, District 1:	✓			
Keely G. Briggs, District 2:	✓			
Jesse Davis, District 3:				✓
John Ryan, District 4:	✓			
Deb Armintor, At Large Place 5:				✓
Paul Meltzer, At Large Place 6:	✓			

PASSED AND APPROVED this the 3rd day of March, 2020.

CHRIS WATTS, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY:

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY:

DocuSign Envelope ID: 95873B95-4C0E-449F-8064-5F2672B94C64

Docusign City Council Transmittal Coversheet

FILE	5770
File Name	Amendment 3 DME GIS
Purchasing Contact	Lori Hewell
City Council Target Date	March 3, 2020
Piggy Back Option	Not Applicable
Contract Expiration	March 3, 2023
Ordinance	20-498

DocuSign Envelope ID: 95873B95-4C0E-449F-8064-5F2672B94C64

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 3

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee"), and Telvent USA, LLC ("Telvent"), Contract No. 2013-402, the parties hereby wish to amend the Agreement for the purpose of extending the ELA for an additional three (3) years. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal
The paragraph a. of Article 6 shall be deleted and replaced with the following provision, with changes shown in italics.

a. **Term:** The license granted by this ELA Amendment 3 is for *an additional three (3) years* from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the term of this Amendment 3 shall be from December 1, 2019 through November 30, 2022.

In **Exhibit 2 – Enterprise Software,** the list of Telvent proprietary software to which Licensee shall have access to during the term of this Amendment 3 shall be deleted and replaced with the following:

- ArcFM
- ArcFM Editor XI
- ArcFM Viewer
- ArcFM Mobile
- Designer
- Designer XI
- Designer Express
- Network Adapter
- Responder
- Fiber Manager
- ArcFM Viewer with Redliner
- ArcFM Viewer with Inspector
- ArcFM Web
- ArcFM Geodatabase Manager
- Wavepoint
- Conduit Manager
- Responder Adapters

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following.

Licensee shall pay the following ELA Fees for the duration of this Amendment 3. Payment for each year shall be due within 30 days of receipt of an invoice from Telvent.

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	Year 1 December 1, 2019 – November 30, 2020	Year 2 December 1, 2020 – November 30, 2021	Year 3 December 1, 2021 – November 30, 2022
Total Annual Fee	$47,500	$47,500	$47,500

All terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: DocuSigned by: Todd Hileman B776C711BA0D454...

Printed Name: Todd Hileman

Title: City Manager

Date: 03/03/2020

Telvent USA, LLC

Signature: DocuSigned by: Drew Ditter 04CEFA4FC4AD4C6...

Printed Name: Drew Ditter

Title: Director of Operations

Date: 2/14/2020

ATTEST:
ROSA RIOS, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: DocuSigned by: Mack Reinwand 7F9D328BF0204E5...

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

DocuSigned by: Antonio Puente, Jr. E3760944C2BF4B5...
SIGNATURE

Antonio Puente, Jr.
PRINTED NAME

Chief Financial Officer
TITLE

Electric
DEPARTMENT

DocuSign Envelope ID: 95873B95-4C0E-449F-8064-5F2672B94C64

Exhibit CIQ

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.** Telvent USA, LLC

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

na

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.

na

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

5 DocuSigned by: Drew Ditter 04CEFA4FC4AD4C6...

ing business with the governmental entity

2/14/2020

Date

Certificate Of Completion

Envelope Id: 95873B954C0E449F80645F2672B94C64
Status: Completed
Subject: Please DocuSign: City Council Contract 5770 Telvent Amendment 3
Source Envelope:
Document Pages: 4
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Lori Hewell
901B Texas Street
Denton, TX 76209
lori.hewell@cityofdenton.com
IP Address: 129.120.6.150

Record Tracking

Status: Original
2/13/2020 8:46:23 AM
Holder: Lori Hewell
lori.hewell@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
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	**Completed** Using IP Address: 129.120.6.150	Sent: 2/13/2020 8:51:44 AM Viewed: 2/13/2020 8:51:52 AM Signed: 2/13/2020 8:53:19 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 2/13/2020 8:53:20 AM Viewed: 2/13/2020 10:07:39 AM Signed: 2/13/2020 10:07:46 AM
Mack Reinwand mack.reinwand@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSigned	DocuSigned by: Mack Reinwand 7F9D328BF0204E5... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 2/13/2020 10:07:47 AM Viewed: 2/13/2020 10:12:09 AM Signed: 2/13/2020 10:14:17 AM
Drew Ditter drew.ditter@se.com Director of Operations Telvent USA, LLC Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 2/13/2020 3:05:52 PM ID: 06e1bd22-6bb4-44fe-ad73-a65e0c5c2bd9	DocuSigned by: Drew Ditter 04CEFA4FC4AD4C6... Signature Adoption: Pre-selected Style Using IP Address: 198.202.137.36	Sent: 2/13/2020 10:14:18 AM Viewed: 2/13/2020 3:05:52 PM Signed: 2/14/2020 9:34:45 AM

Signer E□ents	Signature	□imestamp
Antonio Puente, Jr. antonio.puente@cityofdenton.com Chief Financial Officer Security Level: Email, Account Authentication (None)	DocuSigned by: Antonio Puente, Jr. E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 2/14/2020 9:34:47 AM Viewed: 2/14/2020 9:45:34 AM Signed: 2/14/2020 9:50:13 AM
Electronic Record and Signature Disclosure: Accepted: 2/14/2020 9:45:34 AM ID: d208c3ec-b54c-4700-a24d-e9c9c011a3ba		
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 129.120.6.150	Sent: 2/14/2020 9:50:16 AM Viewed: 3/4/2020 8:48:11 AM Signed: 3/4/2020 8:48:26 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Todd Hileman Todd.Hileman@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)	DocuSigned by: Todd Hileman B776C711BA0D454... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 3/4/2020 8:48:29 AM Viewed: 3/4/2020 9:52:51 AM Signed: 3/4/2020 9:52:55 AM
Electronic Record and Signature Disclosure: Accepted: 7/25/2017 11:02:14 AM ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21		
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)	DocuSigned by: Rosa Rios 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 3/4/2020 9:52:58 AM Viewed: 3/6/2020 7:58:08 AM Signed: 3/6/2020 7:58:54 AM
Electronic Record and Signature Disclosure: Accepted: 3/6/2020 7:58:08 AM ID: 1a007ee1-137a-4527-bbfd-72fe3b47d8be		

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Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 2/13/2020 8:53:20 AM Viewed: 2/13/2020 10:11:05 AM
Electronic Record and Signature Disclosure:		

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Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 2/14/2020 9:50:15 AM
Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/4/2020 8:48:28 AM
Zolaina Parker Zolaina.Parker@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/4/2020 8:48:28 AM
Omar Rodriguez Omar.Rodriguez@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/6/2020 7:58:56 AM

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Signing Complete	Security Checked	3/6/2020 7:58:56 AM
Completed	Security Checked	3/6/2020 7:58:56 AM

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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

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Procurement & Compliance
215 E. McKinney St., Denton, TX 76201 • (940) 349-7100

Name Change

From date of execution, Telvent USA, LLC should now be know as Schneider Electric Smart Grid Solutions, LLC. Schneider hereby accepts all rights, title, and interest to the "Contract" described as follows:

Contract approved May 7, 2013, by and between the City of Denton, Telvent USA, LLC for upgrading Denton Municipal Electric (DME)'s geographical information systems (GIS) and related software systems including ARCGIS and ARCFM Database, Responder outage management system (OMS), Fiber Manager, ARCFM for Silverlight, ARCFM Mobile Replication, ARCFM Mobile Inspector and related custom code from Version 10.1 to 10.2.1A; said Contract # 5225 being in the original not to exceed amount of $491,813.75 and contained the Professional Services Agreement, the Software License Agreement(Contract No. 2013-404), and the Small Utility Enterprise License Agreement (Contract No. 2013-402) (the "ELA").

Amendments 1 through 3 reference contract #5770 in error. The original contract number is 5225 and was attached to all amendments.

Amendment 1 to the ELA approved October 18, 2016, by and between the City of Denton, Telvent USA, LLC for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; said ELA Amendment 1 being in the additional not to exceed amount of $84,000 for a total contract not to exceed amount of $575,813.75.

Amendment 2 to the ELA approved August 7, 2018, by and between the City of Denton, Telvent USA, LLC for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; said ELA Amendment 2 being in the additional not to exceed amount of $4,667 for a total contract not to exceed amount of $580,480.75.

Amendment 3 to the ELA approved March 3, 2020, by and between the City of Denton, Telvent USA, LLC to provide continued vendor support of the Denton Municipal Electric (DME) ArcFM Solution and associated software modules along with new hardware and software upgrades; which is the sole provider of this software; said ELA Amendment 3 being in the additional not to exceed amount of $142,500 for a total contract not to exceed amount of $722,980.75.

This name change shall become effective as of the date the Consent to Name Change is executed by the City of Denton, which will be signed after this Name Change is executed by the Schneider and shall be binding. In the event of a conflict between this name change and the Contract as it relates to the matters of this name changing, the terms of this name change will control. Otherwise, all terms and conditions of the Contract will remain in full force and effect and likewise apply to this document.

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IN WITNESS WHEREOF Schneider execute and affix their respective approval and signature on this Name Change on the dates herein set forth.

Dated: 4/8/2022

DocuSigned by:
Drew Ditter
04CEFA4FC4AD4C6...
Schneider

Consent to Name Change

In accordance with the provisions of the Contract, the City of Denton hereby consents to the name change affirming that no modification of the Contract is made or intended, except as noted hereinabove. Schneider shall provide to the City of Denton the following documentation (1) a completed substitute W-9 form, and (2) a certificate of insurance which meets or exceeds the insurance requirements of the Contract.

Attached: Conflict of Interest Questionnaire
Contract #5225
Amendments 1 – 3 #5770

Dated: 4/8/2022

Approved by:
DocuSigned by:
Lori Hewell
13E1D934887C40F...
Lori Hewell
Purchasing Manager
City of Denton
901B Texas Street
Denton, Texas
940-349-7100
lori.hewell@cityofdenton.com

ORDINANCE NO. 22-1504

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FOURTH AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND SCHNEIDER ELECTRIC SMART GRID SOLUTIONS, LLC, FORMERLY TELVENT USA, LLC, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON MAY 7, 2013, IN THE NOT-TO-EXCEED AMOUNT OF $491,813.75; SAID FOURTH AMENDMENT TO CONTINUE TO PROVIDE VENDOR SUPPORT OF THE DENTON MUNICIPAL ELECTRIC (DME) ARCFM SOLUTION AND ASSOCIATED SOFTWARE MODULES ALONG WITH NEW HARDWARE AND SOFTWARE UPGRADES, WHICH IS THE SOLE PROVIDER OF THESE ITEMS, 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 8048 – PROVIDING FOR A TWO (2) YEAR TERM AND AN ADDITIONAL FOURTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $95,000.00).

WHEREAS, on May 7, 2013, by Ordinance No. 2013-118, the City awarded a contract to Telvent USA, LLC, in the amount of $491,813.75, for the purchase of a Geographic Information/Facilities Management System (GIS) software products for core operations, enhanced web-based GIS, and a new Outage Management System; and

WHEREAS, on October 18, 2016, by Ordinance No. 2016-322, City Council awarded a First Amendment to Telvent USA, LLC, in the amount of $129,401.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on August 8, 2018, Purchasing awarded a Second Amendment to Telvent USA, LLC, in the amount of $4,667.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on March 3, 2020, by Ordinance No. 20-498, the City Council awarded a Third Amendment to Telvent USA, LLC, in the amount of $142,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on April 8, 2022, Purchasing executed a Name Change with Schneider Electric Smart Grid Solutions, LLC, formally Telvent USA, LLC; and

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

WHEREAS, the additional fees under the proposed Fourth Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Fourth Amendment, increasing the amount of the contract between the City and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC, which is on file in the office of the Purchasing Agent, in the amount of Ninety-Five Thousand and 00/100 ($95,000.00), is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment.

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; and 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 is hereby authorized to execute any contracts relating to the items specified in Section 1, and the expenditure of funds pursuant to said contracts 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 Jesse Davis and seconded by Brian Beck, the ordinance was passed and approved by the following vote [7 - 0]:

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

PASSED AND APPROVED this the 16th day of August, 2022.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

CITY OF DENTON
DENTON, TEXAS

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2022.08.10 16:47:21 -05'00'

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Docusign City Council Transmittal Coversheet

FILE	8048
File Name	Schneider Software Support Amendment
Purchasing Contact	Christa Christian
City Council Target Date	AUGUST 16, 2022
Piggy Back Option	No
Contract Expiration	AUGUST 16, 2024
Ordinance	22-1504

DocuSign Envelope ID: 2D9793DD-500D-4020-926D-56EBD160BE7D

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 4

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee"), and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC ("Schneider Electric" or "Telvent"), Contract No. 5770, the parties hereby wish to amend the Agreement for the purpose of extending the ELA for an additional two (2) years and change the contract number from 5770 to 8048. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal
The paragraph a. of Article 6 shall be deleted and replaced with the following provision, with changes shown in italics.

a. **Term:** The license granted by this ELA Amendment 4 is for *an additional two (2) years* from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the term of this Amendment 4 shall be from December 1, 2022 through November 30, 2024.

In **Exhibit 2 – Enterprise Software,** the list of Schneider Electric proprietary software to which Licensee shall have access to during the term of this Amendment 4 shall be as follows:

- ArcFM
- ArcFM Editor XI
- ArcFM Viewer
- ArcFM Mobile
- Designer
- Designer XI
- Designer Express
- Network Adapter
- Responder
- Fiber Manager
- ArcFM Viewer with Redliner
- ArcFM Viewer with Inspector
- ArcFM Web
- ArcFM Geodatabase Manager
- Wavepoint
- Conduit Manager
- Responder Adapters

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following.

Licensee shall pay the following ELA Fees for the duration of this Amendment 4. Payment for each year shall be due within 30 days of receipt of an invoice from Schneider Electric.

Internal

DocuSign Envelope ID: 2D9793DD-500D-4020-926D-56EBD160BE7D

	Year 1 December 1, 2022 – November 30, 2023	Year 2 December 1, 2023 – November 30, 2024
Total Annual Fee	$47,500	$47,500

For a two year not to exceed amount of $95,000

This Amendment constitutes the entire agreement between the parties regarding the matters of this Amendment and supersedes all prior and contemporaneous agreements and understandings regarding the matters of this Amendment. In the event of a conflict between this Amendment and the Agreement as it relates to the matters of this Amendment, the terms of this Amendment will control. Otherwise, all terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: DocuSigned by: Sara Hensley 5236DB290270423...

Printed Name: Sara Hensley

Title: City Manager

Date: 08/16/2022

Schneider Electric Smart Grid Solutions, LLC

Signature: DocuSigned by: Drew Ditter 04CEFA4FC4AD4C6...

Printed Name: Drew Ditter

Title: Global Operations Director

Date: 7/18/2022

Internal

DocuSign Envelope ID: 2D9793DD-500D-4020-926D-56EBD160BE7D

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

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

DocuSigned by:
Antonio Puente
E3760944C2BF4B5...
SIGNATURE

Antonio Puente
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

CITY OF DENTON, TEXAS

BY: DocuSigned by:
Sara Hensley
5236DB296270423...
SARA HENSLEY
CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: DocuSigned by:
Rosa Rios
1C3CA8C3E175493...

APPROVED AS TO LEGAL FORM:
MACK REINWAND , CITY ATTORNEY

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

DocuSign

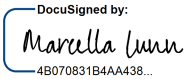
Certificate Of Completion

Envelope Id: 2D9793DD500D4020926D56EBD160BE7D
Status: Completed
Subject: Please DocuSign: City Council Contract 8048 Schneider Software Support Amendment
Source Envelope:
Document Pages: 4
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
7/13/2022 10:23:48 AM
Holder: Christa Christian
Christa.Christian@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christa Christian christa.christian@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 7/13/2022 11:06:30 AM Viewed: 7/13/2022 11:06:42 AM Signed: 7/13/2022 11:07:22 AM
Tabitha Millsop tabitha.millsop@cityofdenton.com Assistant Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 7/13/2022 11:07:24 AM Viewed: 7/13/2022 12:10:13 PM Signed: 7/13/2022 12:10:21 PM
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	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/13/2022 12:10:23 PM Viewed: 7/15/2022 10:19:22 AM Signed: 7/15/2022 10:20:02 AM
Drew Ditter drew.ditter@se.com Global Operations Director Schneider Electric Smart Grid Solutions, LLC. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/18/2022 10:27:02 AM ID: a9dcb3ec-a63e-4ab5-964f-32235116f571	DocuSigned by:  04CEFA4FC4AD4C6... Signature Adoption: Pre-selected Style Using IP Address: 165.225.10.81	Sent: 7/15/2022 10:20:04 AM Resent: 7/15/2022 12:16:04 PM Resent: 7/15/2022 12:17:38 PM Viewed: 7/18/2022 10:27:02 AM Signed: 7/18/2022 11:10:12 AM

Signer Events	Signature	Timestamp
Antonio Puente Antonio.Puente@cityofdenton.com DME General Manager Security Level: Email, Account Authentication (None)	DocuSigned by: Antonio Puente E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/18/2022 11:10:14 AM Viewed: 7/18/2022 2:32:34 PM Signed: 7/18/2022 2:32:51 PM
Electronic Record and Signature Disclosure: Accepted: 7/18/2022 2:32:34 PM ID: de21b813-52bb-42f4-9136-99045670c2d9		
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 198.49.140.10	Sent: 7/18/2022 2:32:55 PM Viewed: 8/17/2022 8:22:06 AM Signed: 8/17/2022 8:22:26 AM
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)	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 8/17/2022 8:22:29 AM Viewed: 8/17/2022 8:23:11 AM Signed: 8/17/2022 8:23:22 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)	DocuSigned by: Rosa Rios 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 8/17/2022 8:23:24 AM Viewed: 8/17/2022 1:41:24 PM Signed: 8/17/2022 1:41:44 PM
Electronic Record and Signature Disclosure: Accepted: 8/17/2022 1:41:24 PM ID: 85013305-a946-4f6b-952b-315850bcd49e		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 7/13/2022 11:07:24 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 7/18/2022 2:32:54 PM Viewed: 7/19/2022 10:32:38 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/17/2022 1:41:46 PM
Mark Zimmerer mark.zimmerer@cityofdenton.com Electric Engineering Supervisor Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/18/2022 1:28:41 PM ID: 79c223f8-d900-4558-9eb9-21104dba1e4e	COPIED	Sent: 8/17/2022 1:41:47 PM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/13/2022 11:06:30 AM
Certified Delivered	Security Checked	8/17/2022 1:41:24 PM
Signing Complete	Security Checked	8/17/2022 1:41:44 PM
Completed	Security Checked	8/17/2022 1:41:47 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 24-1198

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIFTH AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND SCHNEIDER ELECTRIC SMART GRID SOLUTIONS, LLC, FORMERLY TELVENT USA, LLC, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON MAY 7, 2013, IN THE NOT-TO-EXCEED AMOUNT OF $491,813.75; SAID FIFTH AMENDMENT TO CONTINUE TO PROVIDE VENDOR SUPPORT OF THE DENTON MUNICIPAL ELECTRIC (DME) ARCFM SOLUTION AND ASSOCIATED SOFTWARE MODULES ALONG WITH NEW HARDWARE AND SOFTWARE UPGRADES, WHICH IS THE SOLE PROVIDER OF THESE ITEMS, 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 8564 – PROVIDING FOR A TWO (2) YEAR TERM AND AN ADDITIONAL FIFTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $95,000.00).

WHEREAS, on May 7, 2013, by Ordinance No. 2013-118, the City awarded a contract to Telvent USA, LLC, in the amount of $491,813.75, for the purchase of a Geographic Information/Facilities Management System (GIS) software products for core operations, enhanced web-based GIS, and a new Outage Management System; and

WHEREAS, on October 18, 2016, by Ordinance No. 2016-322, City Council awarded a First Amendment to Telvent USA, LLC, in the amount of $129,401.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on August 8, 2018, Purchasing awarded a Second Amendment to Telvent USA, LLC, in the amount of $4,667.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on March 3, 2020, by Ordinance No. 20-498, the City Council awarded a Third Amendment to Telvent USA, LLC, in the amount of $142,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on April 8, 2022, Purchasing executed a Name Change with Schneider Electric Smart Grid Solutions, LLC, formally Telvent USA, LLC; and

WHEREAS, on August 16, 2022, by Ordinance No. 22-1504, the City Council awarded a Fourth Amendment to Schneider Electric Smart Grid Solutions, LLC, in the amount of $95,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

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

WHEREAS, the additional fees under the proposed Fifth Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law;
NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Fifth Amendment, increasing the amount of the contract between the City and Schneider Electric Smart Grid Solutions, LLC, which is on file in the office of the Purchasing Agent, in the amount of Ninety-Five Thousand and 00/100 ($95,000.00), is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be attached hereto.

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; and 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 is hereby authorized to execute any contracts relating to the items specified in Section 1, and the expenditure of funds pursuant to said contracts 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 Brian Beck and seconded by Joe Holland. This ordinance was passed and approved by the following vote [7 - 0]:

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

PASSED AND APPROVED this the 18th day of June, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: Lauren Thoden

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

DocuSign Envelope ID: 01B64C6C-B215-43D3-8D82-3D09823A610B

Docusign City Council Transmittal Coversheet

FILE	8564
File Name	SCHEIDER SOFTWARE SUPPORT AMENDMENT
Purchasing Contact	Crystal Westbrook
City Council Target Date	JUNE 18, 2024
Piggy Back Option	Not Applicable
Contract Expiration	NOVEMBER 30, 2026
Ordinance	24-1198

DocuSign Envelope ID: 01B64C6C-B215-43D3-8D82-3D09823A610B

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 5

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee"), and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC ("Schneider Electric" or "Telvent"), SE Contract No. 2013-402 or Denton Contract No. 8048, the parties hereby wish to amend the Agreement for the purpose of extending the ELA for an additional two (2) years and change the contract number from 8048 to 8564. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal

The paragraph a. of Article 6 shall be deleted and replaced with the following provision, with changes shown in italics.

a. **Term:** The license granted by this ELA Amendment 5 is for *an additional two (2) years* from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the term of this Amendment 5 shall be from December 1, 2024 through November 30, 2026.

In **Exhibit 2 – Enterprise Software,** the list of Schneider Electric proprietary software to which Licensee shall have access to during the term of this Amendment 5 shall be as follows:

- ArcFM
- Fiber Manager
- Fiber Manager XI
- ArcFM Editor XI
- ArcFM Viewer with Redliner
- ArcFM Viewer
- ArcFM Viewer with Inspector
- ArcFM Mobile
- ArcFM Web
- ArcFM Web XI
- Designer
- Designer XI
- ArcFM Geodatabase Manager
- ArcFM Geodatabase Manager XI
- Designer Express
- Wavepoint

Internal

DocuSign Envelope ID: 01B64C6C-B215-43D3-8D82-3D09823A610B

ÅWavepoint XI
ÅConduit Manager
ÅResponder
• Responder Adapters

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following.

Licensee shall pay the following ELA Fees for the duration of this Amendment 4. Payment for each year shall be due within 30 days of receipt of an invoice from Schneider Electric.

	Year 1 December 1, 2024 – November 30, 2025	**Year 2 December 1, 2025 – November 30, 2026**
Total Annual Fee	$47,500	$47,500

For a two year not to exceed amount of $95,000

All terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: DocuSigned by: Sara Hensley 5236DB296270423...

Printed Name: Sara Hensley

Title: City Manager

Date: 6/20/2024

Schneider Electric Smart Grid Solutions, LLC

Signature: DocuSigned by: Drew Ditter 04CEFA4FC4AD4C6...

Printed Name: Drew Ditter

Title: Global Operations Director

Date: 5/28/2024

Internal

DocuSign Envelope ID: 01B64C6C-B215-43D3-8D82-3D09823A610B

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

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

DocuSigned by:
Antonio Puente, Jr.
E3760944C2BF4B5...

SIGNATURE

Antonio Puente, Jr.
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: DocuSigned by:
Lauren Thoden
D09D09CAD33D487...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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.**

SCHNEIDER ELECTRIC SMART GRID SOLUTIONS, LLC

2

[X] **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family 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 [X] No

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

[ ] Yes [X] No

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

[ ] Yes [X] No

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

4 [X] **I have no Conflict of Interest to disclose.**

5

DocuSigned by:
Drew Ditter
04CEFA4FC4AD4C6...
Signature of vendor doing business with the governmental entity

5/28/2024
Date

DocuSign Envelope ID: 01B64C6C-B215-43D3-8D82-3D09823A610B

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.

DocuSign

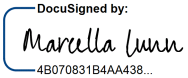
Certificate Of Completion

Envelope Id: 01B64C6CB21543D38D823D09823A610B
Status: Completed
Subject: Please DocuSign: City Council Contract 8564 Schneider Electric ArcFM Support Amendment
Source Envelope:
Document Pages: 6
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
5/20/2024 10:33:54 AM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 5/20/2024 10:35:34 AM Viewed: 5/20/2024 10:35:41 AM Signed: 5/20/2024 10:44:33 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/20/2024 10:44:36 AM Viewed: 5/20/2024 12:55:05 PM Signed: 5/20/2024 12:55:22 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/20/2024 12:55:24 PM Viewed: 5/20/2024 4:04:40 PM Signed: 5/20/2024 4:06:06 PM
Drew Ditter drew.ditter@se.com Global Operations Director Schneider Electric Smart Grid Solutions, LLC. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/21/2024 9:15:15 AM ID: 916a889f-9859-44d9-b8f4-1e8c6bbb9c5c	 Signature Adoption: Pre-selected Style Using IP Address: 38.15.61.30	Sent: 5/20/2024 4:06:08 PM Viewed: 5/21/2024 9:15:15 AM Signed: 5/28/2024 11:41:31 AM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. antonio.puente@cityofdenton.com DME General Manager Security Level: Email, Account Authentication (None)	DocuSigned by: Antonio Puente, Jr. E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/28/2024 11:41:34 AM Viewed: 5/28/2024 1:14:19 PM Signed: 5/28/2024 1:14:33 PM
Electronic Record and Signature Disclosure: Accepted: 5/28/2024 1:14:19 PM ID: af368f9c-d796-462b-8876-cee1737965b4		
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 198.49.140.10	Sent: 5/28/2024 1:14:36 PM Viewed: 6/20/2024 9:13:58 AM Signed: 6/20/2024 9:14:18 AM
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)	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/20/2024 9:14:21 AM Viewed: 6/20/2024 10:44:31 AM Signed: 6/20/2024 10:44:36 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Lauren Thoden lauren.thoden@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)	DocuSigned by: Lauren Thoden D09D09CAD33D487... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 6/20/2024 10:44:39 AM Viewed: 6/20/2024 11:05:49 AM Signed: 6/20/2024 11:06:22 AM
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: 5/20/2024 10:44:35 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 5/28/2024 1:14:36 PM Viewed: 5/28/2024 3:14:06 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 6/20/2024 11:06:25 AM
Jerry Looper jerry.looper@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/23/2024 5:02:47 PM ID: 8a4b487f-4e63-4947-b63b-116198194936	COPIED	Sent: 6/20/2024 11:06:26 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/20/2024 10:35:34 AM
Envelope Updated	Security Checked	5/20/2024 10:42:52 AM
Envelope Updated	Security Checked	5/20/2024 10:42:53 AM
Envelope Updated	Security Checked	5/20/2024 10:42:53 AM
Certified Delivered	Security Checked	6/20/2024 11:05:49 AM
Signing Complete	Security Checked	6/20/2024 11:06:22 AM
Completed	Security Checked	6/20/2024 11:06:26 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A SIXTH AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND SCHNEIDER ELECTRIC SMART GRID SOLUTIONS, LLC, FORMERLY TELVENT USA, LLC, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON MAY 7, 2013, IN THE NOT-TO-EXCEED AMOUNT OF $491,813.75; SAID SIXTH AMENDMENT TO CONTINUE TO PROVIDE VENDOR SUPPORT OF THE DENTON MUNICIPAL ELECTRIC (DME) ARCFM SOLUTION AND ASSOCIATED SOFTWARE MODULES, ALONG WITH NEW HARDWARE AND SOFTWARE UPGRADES; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8764 – PROVIDING FOR A FIVE (5) YEAR TERM AND AN ADDITIONAL SIXTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $357,500.00).

WHEREAS, on May 7, 2013, by Ordinance No. 2013-118, the City awarded a contract to Telvent USA, LLC, in the amount of $491,813.75, for the purchase of a Geographic Information/Facilities Management System (GIS) software products for core operations, enhanced web-based GIS, and a new Outage Management System; and

WHEREAS, on October 18, 2016, by Ordinance No. 2016-322, City Council awarded a First Amendment to Telvent USA, LLC, in the amount of $129,401.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on August 8, 2018, Purchasing awarded a Second Amendment to Telvent USA, LLC, in the amount of $4,667.00, for vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on March 3, 2020, by Ordinance No. 20-498, the City Council awarded a Third Amendment to Telvent USA, LLC, in the amount of $142,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on April 8, 2022, Purchasing executed a Name Change with Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC; and

WHEREAS, on August 16, 2022, by Ordinance No. 22-1504, the City Council awarded a Fourth Amendment to Schneider Electric Smart Grid Solutions, LLC, in the amount of $95,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

WHEREAS, on June 18, 2024, by Ordinance No. 24-1198, the City Council awarded a Fifth Amendment to Schneider Electric Smart Grid Solutions, LLC, in the amount of $95,000.00, to provide continued vendor support of the Denton Municipal Electric (DME) ARCFM Solution and associated software modules along with new hardware and software upgrades; and

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

WHEREAS, the additional fees under the proposed Sixth Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law;
NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Sixth Amendment, increasing the amount of the contract between the City and Schneider Electric Smart Grid Solutions, LLC, which is on file in the office of the Purchasing Agent, in the amount of Three Hundred Fifty-Seven Thousand Five Hundred and 00/100 ($357,500.00), is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be attached hereto.

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn _____

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

Docusign City Council Transmittal Coversheet

FILE	8764
File Name	GIS SOFTWARE FOR DESIGN AND MANAGEMENT OF ELECTRIC INFRASTRUCTURE
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

Small Utility Enterprise License Agreement
City of Denton, Texas, a Texas Municipal Corporation
Amendment No. 6

In accordance with the terms and conditions of the Small Utility Enterprise License Agreement ("Agreement" or "ELA") between City of Denton, Texas, a Texas Municipal Corporation ("Licensee"), and Schneider Electric Smart Grid Solutions, LLC, formerly Telvent USA, LLC ("Schneider Electric" or "Telvent"), SE Contract No. 2013-402 or Denton Contract No. 8564, the parties hereby wish to amend the Agreement for the purpose of extending the ELA for an additional five (5) years and change the Denton contract number from 8564 to 8764. The terms of the Agreement shall be amended as follows.

Article 6, Term, Termination, and Renewal
The paragraph a. of Article 6 shall be deleted and replaced with the following provision, with changes shown in italics.

a. **Term:** The license granted by this ELA Amendment 6 is for *an additional* five (5) *years* from the Effective Date, unless terminated earlier as provided herein. The term of all licenses and the authorized period of use for all Enterprise Software deployed by Licensee shall be concurrent with the term of this ELA Amendment. No indefinite or perpetual term license grants are provided with this ELA.

   For the avoidance of doubt, the term of this Amendment 6 shall be from December 1, 2026 through November 30, 2031.

In **Exhibit 2 – Enterprise Software,** the list of Schneider Electric proprietary software to which Licensee shall have access to during the term of this Amendment 6 shall be as follows:

- ArcFM
- Fiber Manager
- Fiber Manager XI
- ArcFM Editor XI
- ArcFM Viewer with Redliner
- ArcFM Viewer
- ArcFM Viewer with Inspector
- ArcFM Mobile
- ArcFM Web
- ArcFM Web XI
- Designer
- Designer XI
- ArcFM Geodatabase Manager
- ArcFM Geodatabase Manager XI
- Designer Express

Internal

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

- Wavepoint
- Wavepoint XI
- Conduit Manager

Exhibit 3 – ELA Fees Schedule, shall be deleted and replaced with the following.

Licensee shall pay the following ELA Fees for the duration of this Amendment 6. Payment for each year shall be due within 30 days of receipt of an invoice from Schneider Electric.

	Year 1 December 1, 2026 – November 30, 2027	**Year 2 December 1, 2027 – November 30, 2028**	**Year 3 December 1, 2028 – November 30, 2029**	**Year 4 December 1, 2029 – November 30, 2030**	**Year 5 December 1, 2030 – November 30, 2031**
Total Annual Fee	$65,000	$65,000	$65,000	$65,000	$65,000

All terms and conditions of the Agreement not specifically amended as provided herein shall remain unchanged and in full force and effect.

Accepted and Agreed:

City of Denton, Texas, a Texas Municipal Corporation

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Schneider Electric Smart Grid Solutions, LLC

Signed by:
Drew Ditter
D45DC39F54D5417...

Signature: _____

Printed Name: Drew Ditter

Title: Global Operations Director

Date: 5/6/2025

Internal

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

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

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

Signed by:
Antonio Puente, Jr.
537609...

Antonio Puente, Jr.

SIGNATURE PRINTED NAME

DME General Manager

TITLE

Electric

DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

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.**

SCHNEIDER ELECTRIC SMART GRID SOLUTIONS, LLC

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

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

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

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

5 Signed by: Drew Ditter D45DC39F64D5417...

Signature of vendor doing business with the governmental entity

5/6/2025
Date

Docusign Envelope ID: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB

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: 1F877E1B-65D6-43D6-8CFF-CBADC53579BB
Status: Sent
Subject: Please DocuSign: City Council Contract 8764 GIS SOFTWARE FOR DESIGN AND MANAGEMENT
Source Envelope:
Document Pages: 6
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
4/7/2025 11:13:06 AM
Holder: Christa Christian
Christa.Christian@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 4/17/2025 12:58:30 PM Viewed: 4/17/2025 12:58:38 PM Signed: 4/17/2025 12:58:50 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS  Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/17/2025 12:58:52 PM Viewed: 4/17/2025 4:30:18 PM Signed: 4/17/2025 4:30:56 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 47.38.247.221 Signed using mobile	Sent: 4/17/2025 4:30:59 PM Resent: 4/22/2025 4:40:51 PM Viewed: 4/22/2025 8:45:38 PM Signed: 4/22/2025 8:46:36 PM
Drew Ditter drew.ditter@se.com Global Operations Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/30/2025 9:44:54 AM ID: 5d3861f2-929a-4061-98df-26f6028d10f5	Signed by:  D45DC39F54D5417... Signature Adoption: Pre-selected Style Using IP Address: 38.175.175.213	Sent: 4/22/2025 8:46:38 PM Resent: 4/23/2025 8:53:49 AM Resent: 4/29/2025 7:41:26 AM Resent: 4/29/2025 7:41:33 AM Resent: 5/5/2025 6:15:45 PM Resent: 5/5/2025 6:17:18 PM Viewed: 5/5/2025 7:03:51 PM Signed: 5/6/2025 10:28:34 AM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. Antonio.Puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 11:47:47 AM ID: 5d931695-6b87-4733-8571-b649ace731e2	Signed by:  E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/6/2025 10:28:45 AM Viewed: 5/6/2025 11:47:47 AM Signed: 5/6/2025 11:48:18 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/6/2025 11:48:20 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 4/17/2025 12:58:52 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/6/2025 11:48:20 AM Viewed: 5/6/2025 1:52:23 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Jerry Looper jerry.looper@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/25/2025 3:55:37 PM ID: 36c25ece-5a62-48c9-9b9e-ea92f3307cf6		
Kenn Darling kenn.darling@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/17/2025 12:58:30 PM
Envelope Updated	Security Checked	4/23/2025 8:53:47 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-084, **Version:** 1

AGENDA CAPTION

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 Texas Meter and Device Company, LLC, for water meter reading services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8772 - awarded to Texas Meter and Device 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 $3,511,770.00).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 Texas Meter and Device Company, LLC, for water meter reading services for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 8772 – awarded to Texas Meter and Device 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 $3,511,770.00).

INFORMATION/BACKGROUND

The proposed contract is to provide manual water meter reading services. The water meter readings throughout the City are currently collected by contracted meter readers. The existing contract is with Texas Meter & Device Company, LLC, and the funds will be depleted in mid-August 2025.

The Water Department is currently reviewing alternatives and assessing the feasibility of the installation of automated meter reading equipment and infrastructure that will reduce the overall effort required for manual meter reading. Given the existing meter reading operation (with contracted meter readers) and the possible implementation of automated meter reading equipment in the near future, engaging the services of a contract firm to collect meter readings will help provide a smoother transition to an automated meter system by providing a transition plan for the water Advanced Metering Infrastructure (AMI) implementation.

Based on the existing number of meters and anticipated 3% growth per year over the next five (5) years, the recommended NTE for this contract is $3,511,700, for a total potential five (5) year contract.

	Year 1	Year 2	Year 3	Year 4	Year 5
Total Meters	45,182	46,537	47,933	49,371	50,852
Price per read	$1.22	$1.22	$1.22	$1.22	$1.22
Total x 12 months	$661,464.48	$681,301.68	$701,739.12	$722,791.44	$744,473.28
Total Contract Amount:					**$3,511,770.00**

Below is the information that Texas Meter & Device Company, LLC, provided regarding the wages they pay their employees who will be assigned to the City's contract.

Position Description	Number of Assigned Employees	Hourly Rate of Assigned Employees
Meter Reader	7 employees	$22.28
AMI Field Supervisor	1 employee	$23.08

Request for Proposals was sent to 551 prospective suppliers, including 50 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Three (3) proposals were received, references were checked, and proposals were evaluated based upon published criteria, including approach, experience, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Texas Meter and Device Company, LLC was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	961 - (Service Only) - Miscellaneous Services, No. 1 (Not Otherwise Classified)
Notifications sent for Solicitation sent in IonWave:	551
Number of Suppliers that viewed Solicitation in IonWave:	21
HUB-Historically Underutilized Business Invitations sent out:	71
SBE-Small Business Enterprise Invitations sent out:	220
Responses from Solicitation:	3

RECOMMENDATION

Award a contract with Texas Meter and Device Company, LLC, for water meter reading service for the 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 $3,511,700.

PRINCIPAL PLACE OF BUSINESS

Texas Meter and Device Company, LLC
Waco, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products and services will be funded through the using department's budget 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: Pricing Evaluation
Exhibit 3: Ordinance and Contract

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

For information concerning this acquisition, contact: Brandon Hamby, 940-349-7645.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8772 - Pricing Evaluation for Water Meter Reading Services

				Respondent's Business Name:	**Texas Meter and Device Company, LLC**	Olameter Corporation	Utilities One, Inc.
				Principal Place of Business (City and State):	**Waco, TX**	Waukesha, WI	Methuem, MA
Line #	**Description**	**QTY**	**UOM**		**Unit**	**Unit**	**Unit**
1	Price Per Read	1	EA		**$1.22**	$1.13	$4.50

Evaluation				
Item #	**Scoring Criteria**	**Texas Meter and Device Company, LLC**	Olameter Corporation	Utilities One, Inc.
1	Approach/Workplan - 35%	**32.67**	28.00	23.33
2	Experience, qualification, past performance - 35%	**30.33**	23.33	18.67
3	Price, Total Cost of Ownership - 30%	**28.00**	30.00	8.00
	Total Score:	**91.00**	81.33	50.00

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TEXAS METER AND DEVICE COMPANY, LLC, FOR WATER METER READING SERVICES FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8772 – AWARDED TO TEXAS METER AND DEVICE 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 $3,511,770.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for water meter reading services for Denton Municipal Electric; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; and

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

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
8772	Texas Meter and Device Company, LLC	$3,511,770.00

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: BF201ADD-1C8A-4EF2-891A-B0090D76F1B6

Docusign City Council Transmittal Coversheet

RFP	8772
File Name	Water Meter Reading Services
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

Docusign Envelope ID: BF201ADD-1C8A-4EF2-891A-B0090D76F1B6

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND
TEXAS METER AND DEVICE COMPANY, LLC
(Contract #8772)

THIS CONTRACT is made and entered into this date _____, by and between **TEXAS METER AND DEVICE COMPANY, LLC** a Texas Limited Liability Company, whose address 5866 N. State HWY 6, Waco, Texas 76712 hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's RFP # 8772 Water Meter Reading Services a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's RFP 8772 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Contractor's Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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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.

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

Signed by:
Antonio Puente, Jr.
E3760944C2BE4B5...

Antonio Puente, Jr.
SIGNATURE PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

CONTRACTOR

DocuSigned by:
BY: LAYTON LIVELY
7B0E3A0EB1EF450...
AUTHORIZED SIGNATURE

Printed Name: LAYTON LIVELY

Title: COO

2547990261
PHONE NUMBER

L.lively@texasmeter.com
EMAIL ADDRESS

__2025-1295700
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed $3,511,770.00. Pricing shall be per Exhibit F attached.

2. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

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

3. 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.

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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.

4. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

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Exhibit B
City of Denton's RFP 8772 File

On File at the Office of the Purchasing Agent

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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.

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6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

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A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs, or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs.
C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA) ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS**: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

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applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

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

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

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

i. delivery of defective or non-conforming deliverables by the Contractor;

ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;

iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;

v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or

vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or

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electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. **RIGHT TO AUDIT**:
A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have

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electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

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without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

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

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the

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U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.
A. Recycled deliverables shall be clearly identified as such.
B. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable federal, State, and local laws, rules or regulations.
A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.
B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:
A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

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losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. **DELAYS**:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

34. **INSURANCE**: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto, if applicable. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.

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

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Solicitation and the Insurance Exhibit.

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

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RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon

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delivery of such deliverables to the City or at such other time as the City may request.
C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

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

42. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

44. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that

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solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. **NO SUBCONTRACTING BID AFTER AWARD**: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. **NO GIFT OF PUBLIC PROPERTY**: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

50. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either

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the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. **DISPUTE RESOLUTION**:

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

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith

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for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
C. The parties shall not be required to submit to binding arbitration.

54. **JURISDICTION AND VENUE**: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

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

56. **HOLIDAYS:** The following holidays are observed by the City:

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

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

57. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

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

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined
in the ADA.

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-
(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

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iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
v. "Foreign end product" means an end product other than a domestic end product.
vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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

62. **LICENSE FEES OR TAXES:** Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

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

64. **COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS:** The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

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

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66. **ATTORNEY'S FEES; LEGAL COSTS:** Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

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

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

69. **FORCE MAJEURE:** The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

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

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

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access

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to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. **PROCUREMENT LAWS**: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. **AUTHORITY**: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

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Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 8772 – Form 1295)

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

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EXHIBIT E
INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.

- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

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- Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum

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combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: $100,000.00 Each Accident
Bodily Injury by Disease: $100,000.00 Each Employee
Bodily Injury by Disease: $500,000,000.00 Policy Limit

NOTES:

a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of $500,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

D. Professional Liability Insurance

If CONTRACTOR is a licensed or certified person who renders professional services, then **Professional Liability Insurance** to provide coverage against any claim which the CONTRACTOR becomes legally obligated to pay as damages arising out of the performance of professional services caused by any negligent error, omission or act with minimum limits of $1,000,000.00 per claim, $2,000,000.00 annual aggregate.

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SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

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Exhibit F

Contractor's Proposal

Bid Lines

1	Price per read Quantity: 1 UOM: EA Price: $1.22 Total: $1.22 Item Notes: As of July 1, 2025, the City of Denton has 44,872 meters

Response Total: $1.22

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CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

Texas Meter and Device Company, LLC

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

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

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

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

5 DocuSigned by: LAYTON LIVELY 7B0E3A0EB1FF450...

Signature of vendor doing business with the governmental entity

5/6/2025
Date

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CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: BF201ADD-1C8A-4EF2-891A-B0090D76F1B6
Status: Sent
Subject: Please DocuSign: City Council Contract 8772 - Water Meter Reading Services
Source Envelope:
Document Pages: 36
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
4/15/2025 4:21:54 PM
Holder: Christa Christian
Christa.Christian@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 4/15/2025 4:25:58 PM Viewed: 4/15/2025 4:26:06 PM Signed: 4/15/2025 4:26:18 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/15/2025 4:26:22 PM Viewed: 4/17/2025 4:31:07 PM Signed: 4/17/2025 4:31:38 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 72.158.228.14 Signed using mobile	Sent: 4/17/2025 4:31:40 PM Viewed: 4/22/2025 8:41:47 PM Signed: 4/22/2025 8:45:12 PM
LAYTON LIVELY L.lively@texasmeter.com COO Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 11:52:11 AM ID: f169f160-e1d4-4a18-82c4-6ce87f7e8a63	 Signature Adoption: Pre-selected Style Using IP Address: 12.106.160.194 Signed using mobile	Sent: 4/22/2025 8:45:15 PM Resent: 5/5/2025 6:11:11 PM Viewed: 5/6/2025 11:52:11 AM Signed: 5/6/2025 3:23:20 PM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. Antonio.Puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 6:15:39 PM ID: 97858bf8-ae59-45c1-99a4-dae15eeb5f15	Signed by:  E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/6/2025 3:23:24 PM Viewed: 5/6/2025 6:15:39 PM Signed: 5/6/2025 6:16:01 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/6/2025 6:16:04 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 4/15/2025 4:26:21 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/6/2025 6:16:04 PM Viewed: 5/7/2025 10:52:20 AM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Brandon Hamby brandon.hamby@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/6/2025 7:49:15 AM ID: 337f0720-7dc5-4384-a5d0-171648fd2472		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/15/2025 4:25:58 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-086, **Version:** 1

AGENDA CAPTION

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 McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., for the construction of Westgate Drive Phase 1 Improvement Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8777 - awarded to McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., in the not-to-exceed amount of $3,914,087.57).

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., for the construction of Westgate Drive Phase 1 Improvement Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (CSP 8777 – awarded to McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., in the not-to-exceed amount of $3,914,087.57).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Westgate Capital Project's original scope included improving the traffic flow by making a full connection of several street segments, including Bronco Way (Bonnie Brae to the I-35 frontage road), Westgate Drive (Winsor to Bronco Way). The original scope also included making Windsor Drive a full four-lane connection from Bonnie Brae to I-35 Frontage Road. However, due to the complexity and extended timeline, it was determined to separate the Bronco Way segment as an independent project to expedite completion, allowing traffic from the new Denton High School direct access to the I-35 frontage road.

The decision to separate the project was driven by the urgent need to complete critical roadway improvements before the start of the 2025-2026 school year in August 2025. The roadway improvements are essential for addressing safety and congestion concerns, particularly during school drop-off and pick-up times. By isolating this segment into Westgate Phase I, the project will focus resources and efforts to ensure these improvements are delivered on time without being delayed by the broader scope of the original project. The remaining segments from the original scope will be completed with the future project, Westgate Phase II. Design for Phase II has been completed, and working to acquire all necessary right-of-way. Construction for Phase II is anticipated to start in 2027.

Project Description	Price
Total Amount	$3,727,702.45
Contingency	186,385.12
Total	**$3,914,087.57**

The construction of the Westgate Drive Phase 1 Improvement Project has a total estimated cost of $3,914,087.57. This estimate includes a $3,727,702.45 total base bid amount and a contingency of $186,385.12. A contingency allowance, if any, is for the sole use of the City and will be subject to written authorization by the City's Project Manager and Program Manager.

Request for Proposals was sent to 1,255 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. Eight (8) proposals were received, with six (6) meeting specifications. References were checked, and proposals were evaluated based upon published criteria including key personnel, quality, reputation, ability to complete projects on schedule and within budget, detailed schedule and written plan, safety record, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., 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:	1,255
Number of Suppliers that viewed Solicitation in IonWave:	32
HUB-Historically Underutilized Business Invitations sent out:	144
SBE-Small Business Enterprise Invitations sent out:	406
Responses from Solicitation:	8
Responses Meeting Specifications:	6

RECOMMENDATION

Award a contract with McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P., for the construction of Westgate Drive Phase 1 Improvement Project for the Capital Projects Department, in a not-to-exceed amount of $3,914,087.57.

PRINCIPAL PLACE OF BUSINESS

McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P.
Grand Prairie, TX

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval, with a completion date by Quarter 2 of 2026.

FISCAL INFORMATION

These services will be funded from Westgate Drive account 350522467.1365.40100. Requisition #170728 has been entered into the Purchasing software system in the amount of $3,250,000. Capital Projects has requested FY2025-2026 additional CIP funding for this project in the sum of $477,702.45. The budgeted amount for this item is $3,914,087.57.

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: Dante Hale, 940-349-7104.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
CSP 8777 - Pricing Evaluation for Westgate Drive Reconstruction

Respondent's Business Name:	**McMahon Contracting and Construction, LLC**	DDM Construction Corporation	Ed Bell Construction Company	Jagoe-Public Company	2L Construction LLC	Urban Infraconstruction LLC
Principal Place of Business (City and State):	**Grand Prairie, TX**	Addison, TX	Dallas, TX	Denton, TX	Rhome, TX	Fort Worth, TX
Total Proposal Amount	**$3,727,702.45**	$3,688,650.67	$3,987,412.91	$4,620,145.08	$3,910,842.30	$988,073.00

5% Contingency:	**$186,385.12**
Total Contract NTE Amount:	**$3,914,087.57**

Evaluation

Scoring Criteria	**McMahon Contracting and Construction, LLC.**	DDM Construction Corporation	Ed Bell Construction Company	Jagoe-Public Company	2L Construction LLC	Urban Infraconstruction LLC
Offeror's Key Personnel - 10%	**7.33**	8.67	9.33	7.33	6.00	6.00
Quality, Reputation, and Ability to Complete Similar Projects on Schedule and Within Budget - 20%	**14.67**	13.33	14.67	16.00	16.00	10.67
Detailed Schedule and Written Plan - 25%	**21.67**	16.67	16.67	21.67	15.00	13.33
Offeror's Safety Record - 5%	**4.33**	3.33	3.67	3.00	2.33	3.00
Price, Total Cost of Ownership - 40%	**39.58**	40.00	37.00	31.90	37.70	32.60
Total Score:	**87.58**	82.00	81.34	79.90	77.03	65.60

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MCMAHON CONTRACTING AND CONSTRUCTION, LLC DBA MCMAHON CONTRACTING, L.P., FOR THE CONSTRUCTION OF WESTGATE DRIVE PHASE 1 IMPROVEMENT PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (CSP 8777 – AWARDED TO MCMAHON CONTRACTING AND CONSTRUCTION, LLC DBA MCMAHON CONTRACTING, L.P., IN THE NOT-TO-EXCEED AMOUNT OF $3,914,087.57).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the construction of Westgate Drive Phase 1 Improvement 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; 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.

CSP NUMBER	CONTRACTOR	AMOUNT
8777	McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P.	$3,914,087.57

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn _____

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Docusign City Council Transmittal Coversheet

RFP	CSP 8777
File Name	Westgate Dr Reconstruction Project
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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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 McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P. 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:

Westgate Dr Reconstruction Phase 1

CSP 8777/210004-1

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 Three Million Seven Hundred Twenty Seven Thousand Seven Hundred and Two Dollars and Forty Five cents ($*3,727,702.45*). At the sole option of the City, five (5) percent contingency in the amount of One Hundred Eighty Six Thousand Three Hundred Eighty Five Dollars and Twelve cents ($*186,385.12*) may be used for a total not-to-exceed amount of Three Million Nine Hundred Fourteen Thousand Eighty Seven Dollars and Fifty Seven Cents ($*3,914,087.57*).

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.

The Contractor shall have the following construction milestone completed at the stated dates:

1. E/W Westgate Drive must be completed to its substantial condition by January 02, 2026

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.

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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.

4.5 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 *One Thousand* Dollars ($*1,000*) for each day that expires after such time, until Substantial Completion is achieved.
2. *Final Acceptance*: If Contractor neglects, refuse, or fails to complete the Work within the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.3, for completion and readiness for Final Payment, Contractor shall pay City *One Thousand* Dollars ($*1,000*) 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 *8777* 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.

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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.

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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.

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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.

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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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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

CITY OF DENTON

BY: _____

TITLE: _____

DATE: _____

MCMAHON CONTRACTING AND CONSTRUCTION, LLC DBA MCMAHON CONTRACTING, L.P.

DocuSigned by:
BY: SCOTT CUMMINGS
0814CCDE83824DD...
AUTHORIZED AGENT

SCOTT CUMMINGS
NAME

President
TITLE

0.00
PHONE NUMBER

scottc@mcmahoncontracting.com
EMAIL ADDRESS

_____
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

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

Signed by:
Seth Garcia
A13701F6BC954FC...
SIGNATURE

Seth Garcia
PRINTED NAME

Interim Director of Capital Projects
TITLE

Capital Projects
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

_____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

SECTION 00 41 01

PROPOSAL FORM - CSP

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

FOR: *CSP 8777 - Westgate Dr Reconstruction Phase 1*

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 OFFORERS and INSTRUCTIONS TO OFFORERS, 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.

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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** Calendar 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** Calendar 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: $ 3,736,509.31 (Base Bid)

6 Proposal Submittal

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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 April 9, 2025 by the entity named below.

Respectfully submitted,

By: _____
(Signature)

Scott Cummings
(Printed Name)

Title: President

Company: McMahon Contracting, L.P.

Address: 3019 Rop Ora Blvd
Grand Prairie, TX 75050

State of Incorporation: Texas

Email: scottc@mcmahoncontracting.com

Phone: (972)263-6907

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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

BAFO PROPOSAL FORM ATTACHMENT

To: Erica Garcia
c/o: Purchasing Division
901-B Texas Street
Denton, Texas 76209

FOR: CSP 8777 – Westgate Dr Reconstruction Phase 1

The undersigned Offeror hereby submits this Proposal Form Revision and Best and Final Offer (this "BAFO") for CSP 8777 – Westgate Dr Reconstruction Phase 1 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: $ 3,744,708.70

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 May 13, 2025 by the entity named below.

Respectfully submitted,

By: _____
(Signature)

Scott Cummings
(Printed Name)

Title: President

Company: McMahon Contracting LP

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

Address: 3019 Roy Orr Blvd
Grand Prairie TX 75050

State of Incorporation: Texas

Email: scottc@mcmahoncontracting.com

Phone: 972-263-6907

END OF SECTION

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

UNIT PRICE BAFO PROPOSAL FORM - CSP

To: City of Denton - Capital Projects
901-B Texas Street
Denton, TX 76209
Erica Garcia/Purchasing Dept.

From: McMahon Contracting, L.P.
3019 Roy Orr Blvd.
Grand Prairie, TX 75050
Scott Cummings
972-263-6907
scottc@mcmahoncontracting.com

PROJ.: **Westgate Drive Reconstruction Phase 1**

RFP: 8777
ENG PMO: 210004-1

OFFEROR'S APPLICATION - UNIT PRICE PROPOSAL

Item No.	Spec. Section No.	Description	UOM	BID QTY	Unit Price	Extended Price
1	01 57 13	0157.001 Storm Water Pollution Prevention Plan (SWPPP>1 Acre)	LS	1	$ 3,066.52	$ 3,066.52
2	01 58 13	0158.001 Temporary Project Sign	EA	3	$ 638.67	$ 1,916.01
3	34 71 13	3471.001 Traffic Control	MO	10	$ 7,200.00	$ 72,000.00
4	01 70 00	0170.001 Mobilization	LS	1	$ 327,840.00	$ 327,840.00
5	31 10 00	3100.001 Site Preparation	LS	1	$ 95,823.62	$ 95,823.62
6	32 84 00	3284.002 Irrigation System Restortation (Allowance)	LS	1	$ 8,000.00	$ 8,000.00
7	N.C.T.C.O.G. 203	9999.001 Illegal Dumping Haul-off Contingency	LS	1	$ 15,000.00	$ 15,000.00
		Section II -Westgate Drive (N&S)				
8	02 41 13	0241.002 Remove Fence	LF	563	$ 2.31	$ 1,300.53
9	02 41 13	0241.003 Remove Guardrail	LF	48	$ 3.42	$ 164.16
10	02 41 15	0241.101 Remove Concrete Pavement	SY	98	$ 28.67	$ 2,803.29
11	02 41 14	0241.036 Remove 18" Utility Line (Storm Drain)	LF	21	$ 18.04	$ 378.84
12	02 41 15	0241.102 Remove Existing Curb and Gutter	LF	84	$ 6.50	$ 546.00
13	02 41 15	0241.106 Remove Asphalt Pavement (various depths)	SY	915	$ 19.10	$ 17,478.62
14	N.C.T.C.O.G. 203	9999.002 Remove and Relocate Existing Mailbox	EA	1	$ 490.23	$ 490.23
15	N.C.T.C.O.G. 203.1	9999.003 Remove Existing Gate	EA	2	$ 173.25	$ 346.50
16	N.C.T.C.O.G. 201	9999.004 Install Temporary Fence	LF	122	$ 8.66	$ 1,056.52
17	31 23 16	3123.001 Unclassified Excavation	CY	783	$ 17.88	$ 14,000.04
18	31 24 00	3124.001 Embankment	CY	364	$ 9.54	$ 3,472.56
19	31 25 14	3125.001 Silt Fence	LF	705	$ 1.85	$ 1,304.25
20	31 25 14	3125.004 Inlet Protection	EA	2	$ 98.18	$ 196.36
21	31 25 14	3125.005 Erosion Control Blanket	SY	621	$ 15.30	$ 9,501.30
22	32 11 29	3211.031 Commercial Lime Slurry (42lbs/SY for 8-inch and 63 lbs/SY for 12-inch)	TON	38	$ 359.90	$ 13,676.20
23	32 11 29	3211.034 8" Lime Treatment	SY	1,715	$ 4.08	$ 6,997.20
24	32 11 29	3211.036 12" Lime Treatment	SY	60	$ 18.18	$ 1,090.80
25	32 12 16	3212.001 Asphalt Pavment (SY), TY D, PG64-22, 2"	SY	50	$ 161.70	$ 8,085.00
26	32 12 16	3212.041 Asphalt Pavment (SY), TY B, PG64-22, 2"	SY	58	$ 334.95	$ 19,427.10
27	32 12 16	3212.042 Asphalt Pavment (SY), TY B, PG64-22, 3"	SY	192	$ 104.59	$ 20,081.28
28	32 12 16	3212.043 Asphalt Pavment (SY), TY B, PG64-22, 4"	SY	50	$ 269.12	$ 13,456.00
29	32 13 13	3213.002 7" Concrete Pavement	SY	112	$ 83.55	$ 9,357.60
30	32 13 13	3213.003 8" Concrete Pavement	SY	1,594	$ 88.54	$ 141,132.76

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31	32 13 13	3213.015 Concrete Street Header	LF	58	$ 22.64	$ 1,313.12
32	N.C.T.C.O.G. 303	9999.005 Anchorage Joint	LF	70	$ 10.83	$ 758.10
33	32 16 00	3216.002 6" Concrete Curb and Gutter (T201A or T201C)	LF	31	$ 27.20	$ 843.20
34	32 16 00	3216.007 6" Concrete Sidewalk	SF	3,964	$ 10.50	$ 41,622.00
35	32 16 00	3216.024 6" Concrete Driveway	SY	86	$ 105.04	$ 9,033.44
36	32 31 00	3231.018 Barbed Wire Fence, Metal Posts	LF	144	$ 9.82	$ 1,414.08
37	32 93 00	3293.015 Topsoil (4")	CY	276	$ 7.53	$ 2,079.12
38	32 93 00	3293.016 Seeding	SY	957	$ 3.33	$ 3,186.81
39	32 93 00	3293.017 Sodding	SY	1,528	$ 9.99	$ 15,264.72
40	32 17 23	3217.010 6" SLD Pvmt Markings HAS (Y)	LF	805	$ 2.60	$ 2,093.00
41	32 17 23	3217.025 24" SLD Pvmt Marking HAE (W)	LF	108	$ 13.86	$ 1,496.88
42	32 17 23	3217.039 REFL Raised Marker TY II-A-A	EA	22	$ 8.09	$ 177.98
43	32 17 23	9999.006 Reflective Blue Type II Marker Pavement Marking	EA	1	$ 28.87	$ 28.87
44	32 17 23	9999.007 24" Yellow Solid Line Pavement Marking	LF	20	$ 13.86	$ 277.20
45	33 01 50	3301.062 Valve Box Adjustment	EA	1	$ 540.19	$ 540.19
46	34 41 50	3441.182 Install Ground Mounted Sign and Post Assembly	EA	4	$ 693.00	$ 2,772.00
47	34 41 50	3441.188 Remove and Reinstall Sign Panel and Post	EA	2	$ 462.00	$ 924.00
48	33 05 05	3305.021 Trench Safety (Water Line)	LF	581	$ 1.48	$ 859.88
49	33 14 11	3314.142 8" PVC Water Pressure Pipe	LF	581	$ 283.76	$ 164,864.56
50	33 14 20	3314.328 8" Gate Valve	EA	2	$ 5,366.38	$ 10,732.76
51	33 14 25	3314.347 12"x8" Tapping Sleeve and Valve (City Performed)	EA	1	$ 11,628.36	$ 11,628.36
52	33 14 25	3314.391 6" Water Main Connection with Shutdown	EA	1	$ 3,002.53	$ 3,002.53
53	33 14 40	3314.407 Fire Hydrant Assembly	EA	1	$ 5,547.58	$ 5,547.58
		Section III - Westgate Drive (E&W)				
54	02 41 13	0241.002 Remove Fence	LF	1,190	$ 2.31	$ 2,748.90
55	02 41 14	0241.034 Remove 15" Utility Line (Storm Drain)	LF	24	$ 27.68	$ 664.32
56	02 41 14	0241.036 Remove 18" Utility Line (Storm Drain)	LF	20	$ 26.85	$ 537.00
57	02 41 14	0241.038 Remove 21" Utility Line (Storm Drain)	LF	28	$ 28.86	$ 808.08
58	02 41 14	0241.045 Remove 42" Utility Line (Storm Drain)	LF	10	$ 85.86	$ 858.60
59	02 41 14	0241.046 Remove 48" Utility Line (Storm Drain)	LF	32	$ 85.76	$ 2,744.32
60	02 41 14	0241.054 Remove Utility Junction Structure (Sanitary Sewer)	EA	1	$ 1,317.14	$ 1,317.14
61	02 41 14	0241.054 Remove Utility Junction Structure (Storm Drain)	EA	1	$ 2,445.47	$ 2,445.47
62	02 41 14	0241.099 Remove Headwall/SET	EA	1	$ 2,292.11	$ 2,292.11
63	02 41 15	0241.101 Remove Concrete Pavement	SY	1,398	$ 26.30	$ 36,758.63
64	02 41 15	0241.106 Remove Asphalt Pavement (various depths)	SY	793	$ 19.10	$ 15,146.30
65	N.C.T.C.O.G. 203.1	9999.008 Remove and Relocate and Reinstall Existing Gate	EA	2	$ 1,501.50	$ 3,003.00
66	N.C.T.C.O.G. 201	9999.004 Install Temporary Fence	LF	2,284	$ 8.66	$ 19,779.44
67	N.C.T.C.O.G. 805	9999.009 NO 2/0 AL Bare Electrical Conductors	LF	1,965	$ 15.01	$ 29,494.65
68	N.C.T.C.O.G. 805	9999.010 NO 2/0 AL TRIPLEX Insulated Electrical Conductors	LF	1,965	$ 5.77	$ 11,338.05
69	N.C.T.C.O.G. 805	9999.011 2-inch PVC SCH 40 Conduit (T)	LF	1,354	$ 41.58	$ 56,299.32

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70	26 05 00, 26 56 00	9999.012 Electrical Service and Connection	EA	1	$ 15,607.51	$ 15,607.51
71	26 05 35	2605.066 Ground Box Type B, w/ Apron	EA	11	$ 2,964.88	$ 32,613.68
72	26 56 00	2656.001 Furnish and Install Roadway Illumination Assembly	EA	10	$ 15,705.69	$ 157,056.90
73	31 23 16	3123.001 Unclassified Excavation	CY	7,195	$ 26.47	$ 190,451.65
74	31 24 00	3124.001 Embankment	CY	340	$ 10.22	$ 3,474.80
75	31 25 14	3125.001 Silt Fence	LF	2,228	$ 1.85	$ 4,121.80
76	31 25 14	3125.004 Inlet Protection	EA	15	$ 98.17	$ 1,472.55
77	31 25 14	3125.005 Erosion Control Blanket	SY	5,448	$ 15.30	$ 83,354.40
78	32 11 23	3211.005 & 3311.010 12" Flexbase, Type A, GR-1 or 2	SY	506	$ 39.97	$ 20,224.82
79	32 11 29	3211.036 12" Lime Treatment	SY	7,746	$ 5.32	$ 41,208.72
80	32 11 29	3211.031 Commercial Lime Slurry (42lbs/SY for 8-inch and 63 lbs/SY for 12-inch)	TON	244	$ 359.90	$ 87,815.60
81	32 13 13	3213.006 11" Concrete Pavement	SY	7,480	$ 94.72	$ 708,505.60
82	32 13 16	3213.016 6" Decorative Concrete Pavement	SY	434	$ 145.53	$ 63,160.02
83	N.C.T.C.O.G. 303	9999.005 Anchorage Joint	LF	568	$ 10.83	$ 6,151.44
84	32 16 00	3216.002 6" Concrete Curb and Gutter (T201A or T201C)	LF	358	$ 27.19	$ 9,734.02
85	32 16 00	3216.007 6" Concrete Sidewalk	SF	22,969	$ 9.23	$ 212,003.87
86	32 16 00	3216.024 6" Concrete Driveway	SY	152	$ 83.62	$ 12,710.24
87	32 31 00	3231.018 Barbed Wire Fence, Metal Posts	LF	2,243	$ 9.82	$ 22,026.26
88	32 31 00	9999.013 Install 16' Gate	EA	2	$ 1,905.75	$ 3,811.50
89	0686 - TxDOT 531	9999.014 Barrier-Free Ramp (10' TxDOT TY 6 MOD)	EA	1	$ 2,714.25	$ 2,714.25
90	0686 - TxDOT 531	9999.015 Barrier-Free Ramp (10' TxDOT TY 7)	EA	2	$ 2,714.25	$ 5,428.50
91	32 17 23	3217.003 4" BRK Pvmt Marking HAS (W)	LF	620	$ 1.73	$ 1,072.60
92	32 17 23	3217.038 REFL Raised Marker TY I-C	EA	31	$ 8.08	$ 250.48
93	32 17 23	9999.006 Reflective Blue Type II Marker Pavement Marking	EA	4	$ 28.88	$ 115.52
94	32 93 00	3293.015 Topsoil (4")	CY	1,361	$ 7.53	$ 10,249.17
95	32 93 00	3293.016 Seeding	SY	6,358	$ 3.26	$ 20,727.08
96	32 93 00	3293.017 Sodding	SY	5,892	$ 9.70	$ 57,152.40
97	33 01 50	3301.060 Manhole Adjustment, Major with Frame and Cover (Sanitary Sewer)	EA	3	$ 4,344.11	$ 13,032.33
98	33 01 50	3301.060 Manhole Adjustment, Major with Frame and Cover (Storm Drain)	EA	1	$ 4,203.12	$ 4,203.12
99	33 01 50	3301.062 Valve Box Adjustment	EA	13	$ 540.18	$ 7,022.34
100	33 01 50	3301.064 Adjust Existing Fire Hydrant	EA	3	$ 3,809.42	$ 11,428.26
101	N.C.T.C.O.G. 203.1	9999.016 Remove and Relocate Existing Fire Hydrant	EA	1	$ 5,702.66	$ 5,702.66
102	33 05 02	3305.002 8" PVC Water Line Lowering	EA	4	$ 8,087.15	$ 32,348.60
103	33 05 02	9999.017 12" PVC Water Line Lowering	EA	5	$ 10,062.52	$ 50,312.60
104	32 05 05	3305.021 Trench Safety (Sanitary Sewer)	LF	6	$ 2.31	$ 13.86
105	33 05 05	3305.021 Trench Safety (Storm Drain)	LF	1,627	$ 1.34	$ 2,180.18
106	33 31 14	3331.045 8" PVC Gravity Sewer Pipe	LF	6	$ 203.81	$ 1,222.86
107	33 42 11	3342.007 18" Reinforced Concrete Pipe, Class III	LF	294	$ 134.88	$ 39,654.72
108	33 42 11	3342.010 21" Reinforced Concrete Pipe, Class III	LF	80	$ 144.50	$ 11,560.00
109	33 42 11	3342.013 24" Reinforced Concrete Pipe, Class III	LF	431	$ 160.53	$ 69,188.43

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

110	33 42 11	3342.019 30" Reinforced Concrete Pipe, Class III	LF	101	$ 221.32	$ 22,353.32
111	33 42 11	3342.022 36" Reinforced Concrete Pipe, Class III	LF	307	$ 252.15	$ 77,410.05
112	33 42 11	3342.025 42" Reinforced Concrete Pipe, Class III	LF	52	$ 348.52	$ 18,123.04
113	33 42 11	3342.028 48" Reinforced Concrete Pipe, Class III	LF	362	$ 364.54	$ 131,963.48
114	33 42 30	3342.369 Stormwater Junction Box, 4'X4'	EA	2	$ 5,347.65	$ 10,695.30
115	33 42 30	3342.370 Stormwater Junction Box, 5'X5'	EA	3	$ 6,190.80	$ 18,572.40
116	33 42 30	3342.371 Stormwater Junction Box, 6'X6'	EA	3	$ 8,304.45	$ 24,913.35
117	33 42 33	3342.379 10' Standard Curb Inlet	EA	1	$ 7,738.50	$ 7,738.50
118	33 42 33	3342.380 15' Standard Curb Inlet	EA	1	$ 10,874.32	$ 10,874.32
119	33 42 33	3342.385 10' Recessed Curb Inlet	EA	8	$ 7,900.20	$ 63,201.60
120	33 42 33	3342.397 4' Drop Inlet	EA	5	$ 8,817.35	$ 44,086.75
				TOTAL BASE PROPOSAL:		**$3,727,702.45**

Westgate Drive Reconstruction Phase 1	**TOTAL PROPOSAL:**	**$3,727,702.45**

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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:

McMahon Contracting, LP
Company

By: Scott Cummings
(Please Print)

3019 Roy Orr Blvd.
Address

Signature: [signature]

Grand Prairie, TX 75050
City/State/Zip

Title: President
(Please Print)

Date: 4-9-2025

END OF SECTION

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

"General Decision Number: TX20250025 01/03/2025

Superseded General Decision Number: TX20240025

State: Texas

Construction Type: Highway

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

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

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

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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

http://www.dol.gov/whd/govcontracts.

Modification Number 0 | Publication Date 01/03/2025

SUTX2011-007 08/03/2011

	Rates	Fringes
CONCRETE FINISHER (Paving and Structures)	$ 14.12 **	
ELECTRICIAN	$ 19.80	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 13.16 **	
Structures	$ 13.84 **	
LABORER		
Asphalt Raker	$ 12.69 **	
Flagger	$ 10.06 **	
Laborer, Common	$ 10.72 **	
Laborer, Utility	$ 12.32 **	
Pipelayer	$ 13.24 **	
Work Zone Barricade Servicer	$ 11.68 **	
POWER EQUIPMENT OPERATOR:		
Asphalt Distributor	$ 15.32 **	
Asphalt Paving Machine	$ 13.99 **	
Broom or Sweeper	$ 11.74 **	
Concrete Pavement Finishing Machine	$ 16.05 **	
Concrete Saw	$ 14.48 **	
Crane Operator, Lattice Boom 80 Tons or Less	$ 17.27 **	
Crane Operator, Lattice Boom over 80 Tons	$ 20.52	
Crane, Hydraulic 80 Tons or Less	$ 18.12	
Crawler Tractor	$ 14.07 **	
Excavator, 50,000 pounds or less	$ 17.19 **	
Excavator, over 50,000 pounds	$ 16.99 **	
Foundation Drill , Truck Mounted	$ 21.07	
Foundation Drill, Crawler Mounted	$ 17.99	
Front End Loader 3 CY or Less	$ 13.69 **	
Front End Loader, over 3 CY	$ 14.72 **	
Loader/Backhoe	$ 15.18 **	
Mechanic	$ 17.68 **	
Milling Machine	$ 14.32 **	
Motor Grader, Fine Grade	$ 17.19 **	
Motor Grader, Rough	$ 16.02 **	
Pavement Marking Machine	$ 13.63 **	
Reclaimer/Pulverizer	$ 11.01 **	
Roller, Asphalt	$ 13.08 **	
Roller, Other	$ 11.51 **	
Scraper	$ 12.96 **	
Small Slipform Machine	$ 15.96 **	
Spreader Box	$ 14.73 **	

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

Servicer.....$ 14.58 **

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

TRUCK DRIVER
Lowboy-Float.....$ 16.24 **
Off Road Hauler.....$ 12.25 **
Single Axle.....$ 12.31 **
Single or Tandem Axle Dump Truck.....$ 12.62 **
Tandem Axle Tractor with Semi Trailer.....$ 12.86 **
Transit-Mix.....$ 14.14 **

WELDER.....$ 14.84 **

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

==========

** 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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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.

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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"

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

"General Decision Number: TX20250016 03/07/2025

Superseded General Decision Number: TX20240016

State: Texas

Construction Type: Heavy

County: Denton County in Texas.

Heavy Construction, Including Treatment Plants (Does not include water/sewer lines)

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.

Modification Number	Publication Date
0	01/03/2025
1	03/07/2025

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ASBE0021-003 06/01/2023

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR (Includes application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems)	$ 31.32	7.52

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* ELEC0020-004 12/01/2024

	Rates	Fringes
Electricians:		
Cable Splicer	$ 29.81	8.84
Electrician	$ 38.95	11.56

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* ELEC0220-001 06/02/2024

	Rates	Fringes
Line Construction:		
CABLE SPLICERS	$ 17.12 **	14.5%+3.75
EQUIPMENT OPERATORS	$ 25.83	20.50%+7.75
GROUNDMAN	$ 19.28	4.5%+7.80
LINEMAN	$ 41.31	20.5%+7.25
TRUCK DRIVER	$ 23.14	9.5%+7.25

ENGI0178-001 06/01/2020

	Rates	Fringes
Cranes:		
Hydraulic Crane (35 ton & under)	$ 32.35	13.10
Hydraulic over 35 tons,Derricks, Overhead Gentry,Stiffleg,Tower,etc., and Cranes with Piledriving or Caisson attachements	$ 32.60	13.10

IRON0263-010 06/01/2024

	Rates	Fringes
Ironworkers:		
Reinforcing & Structural	$ 28.64	7.93

PLUM0100-002 11/01/2024

	Rates	Fringes
Plumbers and Pipefitters	$ 39.76	14.04

SHEE0068-002 11/01/2012

	Rates	Fringes
Sheet metal worker	$ 27.64	8.84

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* SUTX1990-039 08/01/1990

	Rates	Fringes
CARPENTER	$ 10.536 **	
Concrete Finisher	$ 9.603 **	
Form Builder	$ 8.036 **	
Form Setter	$ 9.578 **	
Laborers:		
Common	$ 7.25 **	
Utility	$ 7.25 **	
Pipelayer	$ 7.961 **	
Power equipment operators:		
Backhoe	$ 10.971 **	
Bulldozer	$ 9.942 **	
Front end loader	$ 10.771 **	
Mechanic	$ 9.88 **	
Motor Grader	$ 11.633 **	
Oiler	$ 9.183 **	
Scraper	$ 8.00 **	
TRUCK DRIVER	$ 7.465 **	

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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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

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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

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Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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
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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:

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Wage and Hour Division
U.S. Department of Labor
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Washington, DC 20210

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

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

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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"

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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 *Westgate Dr Reconstruction Phase 1*. 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:

McMahon Contracting, LP
Company

By: Scott Cummings
(Please Print)

3019 Roy Orr Blvd.
Address

Signature: _____

Grand Prairie, TX 75050
City/State/Zip

Title: President
(Please Print)

THE STATE OF TEXAS §

COUNTY OF DENTON §

BEFORE ME, the undersigned authority, on this day personally appeared Scott Cummings, 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 McMahon Contracting, LP for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of April, 2025.

EMILY K HINOJOSA
NOTARY PUBLIC
STATE OF TEXAS
MY COMM. EXP. 08/30/27
NOTARY ID 134533316

Emily H
Notary Public in and for the State of Texas

END OF SECTION

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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.

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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.

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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

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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 toto support scheduled performance of related construction activities.

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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

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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.

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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.

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2.04 *Preconstruction Meeting*

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

2.05 *Public Meeting*

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

2.06 *Initial Acceptance of Schedules*

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

2.07 *Electronic Submittals and Transmittals*

A. Except as otherwise stated elsewhere in the Contract, the City and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.

B. If the Contract does not establish protocols for Electronic Means, then City and Contractor shall jointly develop such protocols.

C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.

B. It is the intent of the Contract to describe a functionally complete Project to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to City.

C. City will issue clarifications and interpretations of the Contract Documents as provided herein.

D. The Specifications may vary in form, forma and style. Some Specification sections may be written in varying degrees of streamlined or declarative style, and some sections may be relatively narrative by comparison. Omission of such words and phrases as "the Contractor shall," "in conformity with," "as shown," or "as specified" are intentional in streamlined sections. Omitted words and phrases shall be supplied by inference. Similar types of provisions may appear in various parts of a section or articles within a part depending on the format of the section. The Contractor shall not take advantage of any variation of form, format or style in making Contract Claims or Damage Claims.

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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 CityCity, 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.

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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.

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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

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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

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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.

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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.

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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 theirits 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

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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.

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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.

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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.

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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

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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 underwrittenmay 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.

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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

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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

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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

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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.

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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

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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.

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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 oulined 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.

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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.

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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.

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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

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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;

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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.

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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

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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;

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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.**

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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

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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

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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.

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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.

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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.

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ARTICLE 11 – CHANGES ININ THE WORK; CLAIMS; EXTRA WORK

11.01 *Amending and Supplementing the Contract*

A. The Contract may be amended toto 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

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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.

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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:

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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.

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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.

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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:

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1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, 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.

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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.

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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, thisany 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.

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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;

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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

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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.

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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 CityCity, 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.

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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 hashas 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

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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;

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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.

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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

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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

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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

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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

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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.

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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

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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.

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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

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

17.05 *No Waiver*

A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

B. The City has not waived its sovereign immunity except as expressly set forth in Subchapter I, Chapter 271 of the Texas Local Government Code or as expressly waived by other statute.

17.06 *Survival of Obligations*

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

17.07 *Assignment of Contract*

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

17.08 *Successors and Assigns*

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

17.09 *Governing Law*

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

17.10 *Headings*

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

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SECTION 00 73 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.

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.

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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 ***January 1, 2025*:**

Outstanding Right-Of-Way, and/or Easement to be Acquired

PARCEL	OWNER	TYPE OF ROW/EASEMENT	TARGET DATE OF POSSESSION
WESTGATE DR (N&S)			
53	Richard J. & Sarah L. Gibbons	Proposed Temporary Construction Easement	April 2025
61	Denton ISD	Proposed Temporary Construction Easement and Proposed Drainage Easement	April 2025
WESTGATE DR (E&W)			
62	SV Presidio LLC	Proposed Temporary Construction Easement	December 2024
63	Catdenton 35 Three Inc.	Proposed Temporary Construction Easement, Proposed ROW and Proposed Drainage Easement	December 2024
68	Catdenton 35 Eight Inc.	Proposed Temporary Construction Easement and Proposed ROW	December 2024

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 ***January 1, 2025:***

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EXPECTED OWNER	UTILITY AND LOCATION	TARGET DATE OF ADJUSTMENT
Denton Municipal Electric	Power Poles, Luminaires and UG & OH Electric Relocations (Multiple Locations)	March 2025
Frontier/Cyient	Fiber Optic, Vault and Pedestal Adjustments (Multiple Locations)	March 2025
~~Denton Utilities~~	~~Water/Sewer Appurtenance Adjustments (Multiple Locations)~~	March 2025
Atmos	Gas Pipeline Marker Adjustments (Multiple Locations)	March 2025

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:

A Geotechnical Engineering Study Report No. 117-23-332, dated June 14, 2023, prepared by CMJ Engineering, Inc., a sub-consultant of Halff Associates, Inc., a consultant of the City, providing additional information on general paving and subsurface conditions, evaluate the engineering characteristics of the subsurface materials encountered, and develop recommendations for earthwork, the types of pavement subgrade preparation and stabilization and provide concrete and asphalt pavement design guidelines.

The following are drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities) which are at or contiguous to the site of the Work:
None

SC-5.05 A., "Underground Facilities

The following are additional resources for identification of Underground Facilities which are at or contiguous to the site of the Work, and which are not necessarily shown in the Drawings:
None

SC-5.06A., "Hazardous Environmental Conditions at Site"

The following are reports and drawings of existing hazardous environmental conditions known to the City:
None

SC-6.02, "Performance, Payment, and Maintenance Bonds"

The "Contract Price" for Performance, Payment, and Maintenance Bonds will be the same as indicated in Article 3 as listed in the Agreement.

SC-6.03A., "Certificates of Insurance"

The entities listed below are "additional insureds as their interest may appear" including their respective officers, directors, agents and employees.

(1) City
(2) Consultant: ***Halff Associates, Inc.***
(3) Other: ***None***

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SC-6.04A., "Contractor's Insurance"

The limits of liability for the insurance required by Paragraph GC-6.04 shall provide the following coverages for not less than the following amounts or greater where required by laws and regulations:

6.04A. Workers' Compensation, under Paragraph GC-6.04A.

Statutory limits
Employer's liability
$100,000 each accident/occurrence
$100,000 Disease - each employee
$500,000 Disease - policy limit

SC-6.04B., "Contractor's Insurance"

6.04B. Commercial General Liability, under Paragraph GC-6.04B. Contractor's Liability Insurance under Paragraph GC-6.04B., which shall be on a per project basis covering the Contractor with minimum limits of:

$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:

$250,000 Bodily Injury per person /
$500,000 Bodily Injury per accident /
$100,000 Property Damage

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***

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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: *$Confirm Limits with Railroad*

(2) Each Occurrence: *$Confirm Limits with Railroad*

____ *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

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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. Notice of Intent (NOI)

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:

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 ***January 1, 2025:***

Outstanding Permits and/or Licenses to Be Acquired

OWNER	PERMIT OR LICENSE AND LOCATION	TARGET DATE OF POSSESSION
TDLR	RAS Plans Inspection and Compliance Review	June 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:

None

Vendor	**Scope of Work**	**Coordination Authority**
Denton Municipal Electric	*Electrical Services/Materials*	*Denton Municipal Electric*

SC-9.01, "Communications to Contractor"

Contractor is made aware of one cattle operation located within the limits of the jobsite. The location is found within the entire length of Westgate (E&W). Contractor must use extreme caution not to let the livestock on TxDOT right-of-way and City streets.

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

SC-10.01B., "City's Project Manager"

The City's Project Manager for this Contract is ***Dante Hale***, or his/her successor pursuant to **written notification from the City Engineer.**

SC-13.02B., "Tests and Inspections"

Contractor is responsible of all required testing and inspections found to be subsidiary to other Contract Pay Items. These items shall include but aren't limited to the following subsidiary pay items:

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**

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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.**

McMahon Contracting and Construction, LLC dba McMahon Contracting, L.P.

2 [X] **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

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

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

[ ] Yes [ ] No

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

[ ] Yes [ ] No

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

[ ] Yes [ ] No

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

4 [ ] **I have no Conflict of Interest to disclose.**

5 DocuSigned by:
SCOTT CUMMINGS
0814GCDE83824DD...
Signature of vendor doing business with the governmental entity

5/29/2025
Date

Docusign Envelope ID: 949E422A-EF1D-440A-89D9-3058FF99B689

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: 949E422A-EF1D-440A-89D9-3058FF99B689
Status: Sent
Subject: Please DocuSign: City Council Contract 8777 CSP Westgate Dr Reconstruction Project
Source Envelope:
Document Pages: 111
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
5/23/2025 8:39:27 AM
Holder: Erica Garcia
erica.garcia@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Erica Garcia erica.garcia@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 5/23/2025 8:44:05 AM Viewed: 5/23/2025 8:44:14 AM Signed: 5/23/2025 8:45:03 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 47.184.122.38	Sent: 5/23/2025 8:45:06 AM Viewed: 5/23/2025 9:55:30 AM Signed: 5/23/2025 9:58:03 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 166.198.250.44 Signed using mobile	Sent: 5/23/2025 9:58:06 AM Viewed: 5/23/2025 11:02:06 AM Signed: 5/23/2025 11:06:27 AM
SCOTT CUMMINGS scottc@mcmahoncontracting.com President McMahon Contracting Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/28/2025 1:14:55 PM ID: 9a35a89c-73fa-4767-b292-a22056ba529a	DocuSigned by: SCOTT CUMMINGS 0814CCDE83824DD... Signature Adoption: Pre-selected Style Using IP Address: 71.78.122.98	Sent: 5/23/2025 11:06:31 AM Resent: 5/27/2025 8:13:50 AM Resent: 5/28/2025 10:30:51 AM Resent: 5/29/2025 9:27:37 AM Resent: 5/29/2025 4:10:16 PM Viewed: 5/29/2025 4:33:25 PM Signed: 5/29/2025 4:38:18 PM

Signer Events	Signature	Timestamp
Seth Garcia seth.garcia@cityofdenton.com Interim Director of Capital Projects Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/29/2025 4:44:04 PM ID: febda875-870f-48a5-aede-86af8663feb1	Signed by:  A13701F6BC954FC... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/29/2025 4:38:22 PM Viewed: 5/29/2025 4:44:04 PM Signed: 5/29/2025 4:44:41 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/29/2025 4:44:45 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 5/23/2025 8:45:07 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 5/29/2025 4:44:45 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/23/2025 8:44:05 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

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

Required hardware and software

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

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

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

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

File #: PUB25-089, **Version:** 1

AGENDA CAPTION

Consider approval of the May 19, 2025, minutes.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
May 19, 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, May 19, 2025, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist

Also present: General Manager Stephen Gay and Deputy City Attorney Marcella Lunn

Absent: Susan Parker, Thomas Plock, Lee Riback

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-C.

Board member Taylor pulled item 2 A.

Board Member Rayner moved to recommend adoption of agenda items 2 B-C. Motion seconded by Board Member Newquist; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

B. PUB25-074 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 Flowpoint Environmental Systems, Inc., for a bulk-fill station for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8750 - awarded to Flowpoint Environmental Systems, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $94,000.00).

C. PUB25-075 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 Samsara Inc. through the Sourcewell Cooperative Purchasing Network Contract No. 020221, for the Samsara Camera Software System for the Solid Waste and Recycling Department; authorizing the expenditure of funds therefor; and providing an effective date (File 8679 - awarded to Samsara 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 $434,929.00).

A. PUB25-068 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 Raftelis Financial Consultants, Inc., for the Water, Wastewater, and Drainage Utilities Cost of Service Study for the Water Utilities Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8738 - Professional Services Agreement for a Cost of Service Study awarded to Raftelis Financial Consultants, Inc., in the five (5) year not-to-exceed amount of $689,803.00).

Board member Taylor asked questions that Stephen Gay answered.

Board Member Taylor moved to recommend adoption of agenda item 2A. Motion seconded by Board Member Rayner; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB25-066 Consider approval of April 28, 2025, minutes.

Board Member Taylor moved to recommend adoption of IC item 3 A. Motion seconded by Board Member Newquist; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

B. PUB25-071 Consider approval of May 5, 2025, minutes.

Board Member Rayner moved to recommend adoption of IC item 3 B. Motion seconded by Board Member Newquist; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

C. PUB25-039 Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue $46,535,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing an effective date.

Randee Klingle delivered a presentation concerning items C and D, and the votes for each item were conducted individually.

Board Member Taylor moved to recommend adoption of IC item 3 C. Motion seconded by Board Member Newquist; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

D. PUB25-040 Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue $207,515,000 in principal amount of Certificates of Obligation of

the City of Denton for Waterworks and Wastewater System and Electric System projects; and providing an effective date.

Board Member Rayner moved to recommend adoption of IC item 3 D. Motion seconded by Board Member Taylor; motion carried.
YES (4): Chair Billy Cheek, Devin Taylor, Robert Rayner, Aaron Newquist
NO (0):

E. PUB25-073 Management Reports
1. PUB25-036 Inquiry Memo
2. 6590-097 - Memo for PUB
3. 8662 - Memo for PUB
4. Future Agenda Items
5. New Business Action Items

WORK SESSION

A. PUB24-208 Receive a report, hold a discussion, and give staff direction regarding updates to the Denton Renewable Resource Plan.

Tony Puente delivered a presentation and answered questions from Board members. Board members gave unanimous direction to recommend that the City Council approve staff's recommendations with consideration to give the public an opportunity to provide input on the City Renewable Energy Policy.

4. CONCLUDING ITEMS

With no further business, the meeting was adjourned at 10:28 AM.

BILLY CHEEK	**CASSIE BLACKBURN**
CHAIR	**ADMIN MANAGER**
CITY OF DENTON, TEXAS	**CITY OF DENTON, TEXAS**

Minutes approved on: 6/9/2025

File #: PUB25-085, **Version:** 1

AGENDA CAPTION

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 Holt Texas, LTD., through the Buy Board Cooperative Purchasing Network Contract Nos. 685-22 and 740-24, for authorized repair services, purchases, and rentals of Caterpillar construction equipment for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8805 - awarded to Holt Texas, LTD., 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 $14,983,500.00).

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: June 9, 2025

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 Holt Texas, LTD., through the Buy Board Cooperative Purchasing Network Contract Nos. 685-22 and 740-24, for authorized repair services, purchases, and rentals of Caterpillar construction equipment for the Fleet Services Department; providing for the expenditure of funds therefor; and providing an effective date (File 8805 – awarded to Holt Texas, LTD., 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 $14,983,500.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The proposed contract will be utilized by the Fleet Services Department to repair, procure, maintain, and rent Caterpillar construction equipment for various departments, including Beneficial Reuse, Wastewater, Drainage, and Solid Waste. The City's current inventory includes 24 pieces of Caterpillar equipment, which are actively utilized across these departments. This quantity may increase or decrease based on the fleet replacement schedule, evolving departmental requirements, and new fleet additions approved through the Capital Improvement Budget.

Examples of the equipment covered under this contract include dozers, excavators, and wheel loaders, which are primarily utilized for construction activities such as moving bulk materials like sand, dirt, trash, or debris. Establishing this contract with Holt Texas, LTD, the authorized Caterpillar repair facility for the North Texas Region, ensures access to specialized repair services, including warranty work, internal engine repairs, and services requiring proprietary software. These specialized services are essential for minimizing downtime, maintaining operational efficiency, and supporting uninterrupted service delivery for departments with responsibilities critical to the City's infrastructure and services.

The asset replacement projections are determined through a combination of asset lifecycle analysis, operational demands, and budget considerations. Fleet Services utilizes a 15-point maintenance system to track the age, usage, and maintenance history of assets to identify when replacements are necessary to maintain a cost-efficient and safe fleet. Additions are based on projected department growth, service expansions, or new

operational requirements that necessitate increased fleet capacity. The contract value is based on historical spending levels and includes estimates for future assets and services.

Estimated Contract Expenses

Category	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	Total
Asset Additions	$ -	$420,000	$870,000	$900,000	$920,000	$3,110,000
Asset Replacements	2,050,000	2,530,000	1,310,000	1,340,000	920,000	8,150,000
Repair Services	530,000	560,000	600,000	640,000	680,000	3,010,000
Sub Total	**$2,580,000**	**$3,510,000**	**$2,780,000**	**$2,880,000**	**$2,520,000**	**$14,270,000**
Contingency 5%	129,000	175,500	139,000	144,000	126,000	713,500
Total	**$2,709,000**	**$3,685,500**	**$2,919,000**	**$3,024,000**	**$2,646,000**	**$14,983,500**

Pricing obtained through the Buy Board Cooperative Purchasing Network has been competitively bid and meets the statutory requirements of Texas Local Government Code 271.102.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On February 1, 2005, City Council approved the interlocal agreement with the Buy Board Cooperative Purchasing Network (Ordinance 2005-034).

RECOMMENDATION

Award a contract with Holt Texas, LTD., for authorized repair services, purchases, and rentals of Caterpillar construction equipment for the Fleet Services Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $14,983,500.

PRINCIPAL PLACE OF BUSINESS

Holt Texas, LTD.
San Antonio, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same. Buy Board contract 685-22 expires on November 30, 2025, and Buy Board contract 740-24 expires on June 30, 2027.

FISCAL INFORMATION

Repair services will be funded through Fleet Services Operating budget 820100.7879. Equipment purchases will be funded through the Capital Improvement Budget. The budgeted amount for this item is $14,983,500. 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: Cooperative Pricing
Exhibit 3: Presentation
Exhibit 4: Ordinance and Contract

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

For information concerning this acquisition, contact: Tom Gramer, 940-349-7467.

Legal point of contact: Marcella Lunn at 940-349-8333.

1

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Aerial Work Platforms.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

2

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Air Compressors and Air Tools.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

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Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

3 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Power Generating Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

4 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Compaction Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

5 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Concrete and Masonry Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

6 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Earthmoving Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

7 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Heavy Construction Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

8 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Ditching, Trenching and Utility Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

9 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Debris/Scrap Processing Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

10 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Forklifts and Material Handling Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

11

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Light Towers and Generators.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

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Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

12

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Temporary Power and HVAC Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

13

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Power Tools and Surveying Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

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- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

14

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Pressure Washers and Pumps.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

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- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

15 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Trench Safety and Shoring Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

16 **Section I: Rental of Construction Equipment, Tools, and Other Equipment**

Discount (%) off catalog/price list for **Rental of All Types of Heavy-Duty Trucks and Trailers.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

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Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

17

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Welding Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

18

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of Temporary Fencing.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

19

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Rental of All Types of All Other Construction Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

Total: 5%

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Machine Rental Rate Guide

20

Section I: Rental of Construction Equipment, Tools, and Other Equipment

Discount (%) off catalog/price list for **Operator Safety Training and Certification Services** for use with **Rental of Construction and Other Equipment.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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21 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of Compact Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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22 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of Intermediate/Standard/Mid-Size Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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23 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of Full-Size Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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24 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of Premium Size Sedan Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

25

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Minivans and SUV's.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

26

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Small Pickup Trucks.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

27

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Large Pickup Trucks.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

28

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Cargo Vans and Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

29

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Box Trucks.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

30

Section II: Rental of Vehicles

Discount (%) off catalog/price list for **Rental of Refuse Trucks and Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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31 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of Highway Maintenance/Safety Trucks and Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

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32 **Section II: Rental of Vehicles**

Discount (%) off catalog/price list for **Rental of All Other Heavy Truck Vehicles.** Catalog/Price list MUST be included or proposal will not be considered.

No Bid

Item Notes: ***PROPOSAL NOTE:*** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format, with Excel or searchable PDF preferred. ***No paper catalogs or manufacturer/vendor websites will be accepted.***

PROPOSAL NOTE 2: Any resulting contract will be for short term rental services only. Equipment or vehicle purchases, including any rent-to-own, lease-purchase or other similar arrangements which may result in a transfer of title to equipment or vehicles to Cooperative members, will **NOT** be permitted under any contract awarded under this Proposal Invitation.

Vendors proposing multiple manufacturer product lines and/or catalog/price list per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/price list proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/price list listed

Item Attributes

1. State Name of Manufacturer Catalog or Product Price list Proposed with Discount Percentage

NOTE: Do not reference SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

Response Total: $0.00

1 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Air Compressors (Truck or Trailer Mounted), Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 0%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

2 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Articulated Trucks, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

3 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Asphalt Compactors, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 9%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

4 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Asphalt Cutters, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be

accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

5 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Asphalt Distributors, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale

and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

6 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Asphalt Emulsion Tanks, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

7 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Asphalt Pavers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 8%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist

proposed

- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

8 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Backhoe/Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 16%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

9 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Chip Spreaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

10

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Cold Planers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 9%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be

sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

11 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Conveyors, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

12 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Curb and Gutter Machines, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and

a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

13 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Forklifts, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

14 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Generator Equipment and Electrical Systems, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter

from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

15 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Hydraulic Hammers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt Cat Price List

16	**Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Integrated Tool Carriers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

17

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Jack Hammers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

18 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Knuckle Boom Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

19 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Material Handling Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit

the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

20 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Melter Crack Sealers** (Truck or Trailer Mounted)**, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

21 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Mini Excavators, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

22 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Motor Graders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 20%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and

service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

23 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Multi Terrain Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 11%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

24

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Paving Breakers and Milling Machines, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

25

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Pipelaying Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

26

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Pneumatic Compactors and Rollers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

27 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Pothole Patchers** (Trailer or Truck Mounted)**, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be

accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

28

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Road Broom Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale

and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

29 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Road Reclaiming Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

30 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Scrapers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 12%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist

proposed

- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

31 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Skid Steer Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 11%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

32 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Soil Stabilizing Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 10%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

33 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Telescopic Handlers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be

sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

34 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Track Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 12%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

35 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Track and Wheel Material Handlers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and

a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

36

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Track-Type Tractors and Dozers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 12%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

37 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Tracked Excavators, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 8%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter

from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

38 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Trommel Screen Equipment and Compost Turners, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

39 Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Truck Mounted Excavators, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

40

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **All Types of Truck Mounted Aerial Lifts, Accessories and Attachments**

(telescopic, cable handler, digger/hydraulic derrick, and related aerial lifts). Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

41

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Utility Vehicles, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and

service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

42 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Vibratory Soil Compactors and Rollers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 9%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

43

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Waste Handling Wheel Loaders and Landfill Compactors, Accessories and**

Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 13%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

44 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Wheel Dozers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be

sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

45 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Wheel Excavators, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 16%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

46 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Wheel Loaders, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 16%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and

a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

47

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **Heavy Duty Paint Striping Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

48

Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY

Discount (%) off catalog/pricelist for **All Other Construction, Road, Bridge, Other Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter

from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

49 **Section I: New Construction, Road, Bridge and Repair Equipment-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **Repair Parts on All Types of Construction, Road, Bridge, and Other Equipment.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 0%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

50 **Section II: Construction, Road, Bridge, and Repair Equipment-RENTAL ONLY** (Rental Rate Sheet must be

submitted with Proposal or Proposal will not be considered.)

Discount (%) off catalog/pricelist for **RENTAL of All Construction, Road, Bridge, Other Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 5%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

51 **SectionIII: Construction, Road, Bridge, and Repair Equipment** (Pre-Owned/Reconditioned/Retired Rental)-

PURCHASE ONLY

Discount (%) off catalog/pricelist for **All Types of Pre-Owned/Reconditioned/Retired Rental Construction,**

Road, Bridge, Other Equipment, Accessories and Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 0%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-

Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

52 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Broom Street Sweepers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist

proposed

- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

53 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Air Street Sweepers, Accessories and Attachments.** Catalog/Pricelist

MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

54 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Regenerative Air Street Sweepers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

55 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Waterless Street Sweepers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

56 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Alternative Fuel Street Sweepers, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the

Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

57 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **All Types of Mounted Sand and Salt Spreading Equipment, Accessories**

and Attachments (Pick-Up, Utility, Heavy-Duty, or Tailgate)**.**Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

58 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Pre-Wetting Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

59 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Snowplow Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

60 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Deicing Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired

Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

61 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **All Other Types of Street Sweeper, Sand/Salt Spreading, Snowplows and**

Deicing Equipment, Accessories and Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

62 **Section IV: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-**

PURCHASE ONLY

Discount (%) off catalog/pricelist for **Repair Parts on All Types of Street Sweepers, Sand/Salt Spreading,**

Snowplows, Deicing, and Other Related Equipment, Accessories and Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

63

Section V: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment-

RENTAL ONLY (Rental Rate Sheet must be submitted with Proposal or Proposal will not be considered.)

Discount (%) off catalog/pricelist for **RENTAL of All Street Sweepers, Sand/Salt Spreading, Snowplows and**

Deicing Road and Bridge Equipment, Accessories and Attachments. Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

64 **Section VI: Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment** (Pre-

Owned/Reconditioned/Retired Rental)**-PURCHASE ONLY**

Discount (%) off catalog/pricelist for **All Types of Pre-Owned/Reconditioned/Retired Rental Street Sweepers, Sand/Salt Spreading, Snowplows and Deicing Road and Bridge Equipment, Accessories and Attachments.** Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

65 **Section VII: Soil and Road Chemical Polymers**

Discount (%) off catalog/pricelist for **Chemical Base Polymers and Stabilizers for Soil and Road** (used for

soil/road to provide a chemical bond joining particles into formation). Catalog/Pricelist MUST be included or proposal will not be considered.

No Bid

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

No response

66

Section VIII: Installation and Repair Service

Discount (%) off catalog/pricelist for **Maintenance Services** (monthly, quarterly, and/or yearly) **of Construction,**

Road and Bridge, Street Sweepers, Sand/Salt Spreading, Snowplows, Deicing and Other Equipment. Catalog/Pricelist MUST be included or proposal will not be considered.

Total: 0%

Item Notes: **PROPOSAL NOTE 1:** Vendors shall submit catalog(s)/pricelist(s) with their Proposal response or the Proposal will not be

considered. Vendors shall submit catalog(s)/pricelist(s) with the Proposal in a readily available and readable electronic format,

with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

PROPOSAL NOTE 2: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of

equipment submitted. Proposers responding to this Proposal Invitation shall submit an approval letter from each

manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold.

PROPOSAL NOTE 3: Proposers responding to this Proposal Invitation for "Pre-Owned/Reconditioned/Retired Rental"

equipment must also be approved by the manufacturer to sell pre-owned/reconditioned/retired rental equipment for the

brand submitted and must submit an approval letter from each manufacturer with the Proposal. Manufacturer authorization

letters must include the regions in which equipment can be sold. "Pre-Owned/Reconditioned/Retired

Rental" shall be defined

as equipment having been checked and inspected by a manufacturer authorized dealer prior to sale and shall be no older

than sixty (60) months as of the date of delivery. Equipment listed as "Pre-Owned/Reconditioned/Retired Rental" shall be in

good and working condition and shall include a minimum warranty of one-hundred eighty (180) days against any defect from

workmanship and parts and shall cover equipment repairs and/or component replacement. Total equipment usage hours as

displayed on the service meter will have a maximum of one thousand (1,000) hours per year of age and a minimum of

seventy-five percent (75%) of wear remaining for tires, track, and/or ground engagement tools.

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Holt CAT Price List

67 **Section VIII: Installation and Repair Service - Hourly Labor Rate for Installation/Repair Service on All Types of Construction, Road, Bridge and Other Equipment -** Not to Exceed hourly labor rate for Installation/Repair Service of Equipment and Products.

Quantity: 1 UOM: Hourly Labor Rate Price: $193.00 Total: $193.00

68 **Section VIII: Installation and Repair Service - Hourly Labor Rate for Installation/Repair Service on All Types of Street Sweepers, Sand/Salt Spreading, Snowplows, Deicing and Other Equipment -** Not to Exceed hourly labor rate for Installation/Repair Service of Equipment and Products.

Quantity: 1 UOM: Hourly Labor Rate ***No Bid***

Response Total: $193.00

Caterpillar construction equipment purchase, repairs, and rental
Holt Texas, Ltd.
Fleet Services - 8805

Tom Gramer

Director of Facilities & Fleet

6/9/2025

File ID PUB25-085



Buy Board Cooperative
Caterpillar construction equipment purchase, repairs and rental

- The City of Denton Fleet Services Department purchases, repairs, maintains, and rents various types of Caterpillar Construction Equipment utilized by several departments that supports City's services.
- Construction equipment is utilized by multiple departments to provide various services including movement of bulk materials using loaders and excavators.
- The proposed contract allows for the purchase, rental and repair of assets utilized by several departments; such as Wastewater, Drainage, and Solid Waste.
- The repair services provided by this contract ensure that assets requiring specialized diagnostic equipment and technical knowledge remain operational while rental allows departments to respond to fluctuating needs without a long-term commitment.
- All vehicle and equipment acquisitions will be processed through the City's budgeting processes.
- The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

Contract Estimate

Contract Estimate by Year

Category	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	Total
Asset Additions	$ -	$420,000	$870,000	$900,000	$920,000	$3,110,000
Asset Replacements	2,050,000	2,530,000	1,310,000	1,340,000	920,000	8,150,000
Repair Services	530,000	560,000	600,000	640,000	680,000	3,010,000
Sub Total	**$2,580,000**	**$3,510,000**	**$2,780,000**	**$2,880,000**	**$2,520,000**	**$14,270,000**
Contingency 5%	129,000	175,500	139,000	144,000	126,000	713,500
Total	**$2,709,000**	**$3,685,500**	**$2,919,000**	**$3,024,000**	**$2,646,000**	**$14,983,500**

Acquisitions by Department

Department	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	Total
Beneficial Reuse			1			1
Drainage/Streets/Water		3		2		5
Solid Waste	2	2	2	2	2	10
Total	**2**	**5**	**3**	**4**	**2**	**16**

The charts highlight the contract's estimated cost breakdown by fiscal year and the projected acquisition schedule based on the addition and replacement of assets, both of which will be routed through the City's collaborative budgeting process.

Asset Acquisition Example



2018 Trash Compactor.
Acquisition Price: $1,032,162.00

Recommendation

Staff recommends approval of a one-year, with four additional one-year extensions, in the total five-year not-to-exceed amount with Holt Texas, Ltd. for $14,983,500.

Questions?

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH HOLT TEXAS, LTD., THROUGH THE BUY BOARD COOPERATIVE PURCHASING NETWORK CONTRACT NOS. 685-22 AND 740-24, FOR AUTHORIZED REPAIR SERVICES, PURCHASES, AND RENTALS OF CATERPILLAR CONSTRUCTION EQUIPMENT FOR THE FLEET SERVICES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8805 – AWARDED TO HOLT TEXAS, LTD., 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 $14,983,500.00).

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:

FILE NUMBER	VENDOR	AMOUNT
8805	Holt Texas, LTD.	$14,983,500.00

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 attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, and standards contained in the Proposal submitted to the Buy Board Cooperative Purchasing Network, and the quantities and specified sums contained in the City's purchase orders and related documents referenced herein are approved and accepted.

SECTION 4. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the items set forth in the referenced file number, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approval of purchase orders or pursuant to a written contract made pursuant thereto as authorized herein.

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

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Docusign City Council Transmittal Coversheet

COOP	8805
File Name	purchase, repair and rental of Caterpillar construction equipment
Purchasing Contact	Kayla Clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND Holt Texas, LTD.
(File # 8805)

THIS CONTRACT is made and entered into this date _____, by and between Holt Texas, LTD. a Texas limited partnership, whose address is 5665 Southeast Loop 410, San Antonio, Texas 78222, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

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

SCOPE OF SERVICES

Supplier shall provide products in accordance with the Supplier's quote, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit "B"**. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) Buyboard Cooperative Purchasing Contract #685-22 and #740-24 with Holt Texas, LTD **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "F")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to***

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the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement. Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

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

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

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

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

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

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

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SUPPLIER

BY: DocuSigned by: Michael Puryear 03B0D34FE88E413...
AUTHORIZED SIGNATURE

Printed Name: Michael Puryear

Title: Secretary

210-648-11111
PHONE NUMBER

legal@holtcat.com
EMAIL ADDRESS

2025-1306031
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by: F704E88617504DC...
SIGNATURE

Thomas Gramer
PRINTED NAME

Director
TITLE

Fleet
DEPARTMENT

File 8805

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Exhibit A
Special Terms and Conditions

1. Contract Term

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

2. Total Contract Amount

The contract total shall not exceed $14,983,500. Pricing shall be per Exhibit B on file at the office of the Purchasing Agent.

3. Additonal fees

Description	UOM	Price
Holt Supplies (shop supplies)	EA	0% discount
Environmental Fee	EA	$50.00
Freight/Shipping	EA	0% discount
Mileage	Per mile	$5.00
Trip Fee	Per hour	$110.00

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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

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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

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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

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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.

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F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. **RIGHT TO AUDIT**:
A. The Contractor agrees that the City shall, until the expiration of five (5) years after final

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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;

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ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

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

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition,

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Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights

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under this section.
C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:
A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 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

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available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, 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

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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 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.

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B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

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

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

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**

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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-

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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

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solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. **NO SUBCONTRACTING BID AFTER AWARD**: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. **NO GIFT OF PUBLIC PROPERTY**: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

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

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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. 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

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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

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for fifteen (15) years.

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

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined
in the ADA.

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-
(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected,

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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.

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66. **ATTORNEY'S FEES; LEGAL COSTS:** Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

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

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

69. **FORCE MAJEURE:** The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

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

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

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access

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to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. **PROCUREMENT LAWS**: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. **AUTHORITY**: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

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Exhibit 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.

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Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.

- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

    - Name as Additional Insured the City of Denton, its Officials, Agents,

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Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. <u>GARAGE LIABILITY</u>

Garage Liability Insurance including, but not limited to, Premises/Operations, Automobile, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of $1,000,000 other than Auto-

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each accident, $2,000,000 Other than Auto-aggregate, $1,000,000 Auto-each accident.

The policy shall include:

a) Garage Keepers on a direct primary basis to include coverage for Comprehensive and Collision for a limit equal to the Actual Cash Value of the CITY'S vehicle(s) in the CONTRACTOR'S care, custody, or control.

B. COMMERCIAL GENERAL LIABILITY INSURANCE
Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

C. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE
Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for Employers Liability are:

Bodily Injury by Accident: $100,000.00 Each Accident
Bodily Injury by Disease: $100,000.00 Each Employee
Bodily Injury by Disease: $500,000.00 Policy Limit

NOTES:
a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

SUBCONTRACTING LIABILITY
(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense,

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to receive copies of these certificates.

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Exhibit F

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

Holt Texas, LTD.

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.**

Michael Puryear
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:
Michael Puryear
03B0D34FE88E413...
Signature of vendor doing business with the governmental entity

5/7/2025 | 7:02 AM PDT
Date

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CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

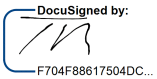
Certificate Of Completion

Envelope Id: 6FE658FC-DDFF-4B82-BBAC-757F9F596164
Status: Sent
Subject: Please DocuSign:City Council Contract 8805 purchase, repairs, and rental of Caterpillar equipment
Source Envelope:
Document Pages: 33
Signatures: 1
Certificate Pages: 5
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Kayla Clark
901B Texas Street
Denton, TX 76209
kayla.clark@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
5/13/2025 12:41:17 PM
Holder: Kayla Clark
kayla.clark@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Kayla Clark kayla.clark@cityofdenton.com Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 5/13/2025 1:00:06 PM Viewed: 5/13/2025 1:00:13 PM Signed: 5/13/2025 1:01:33 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 5/13/2025 1:01:38 PM Viewed: 5/13/2025 1:32:10 PM Signed: 5/13/2025 1:33:54 PM
Thomas Gramer Tom.Gramer@cityofdenton.com Director Facilities and Fleet Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/14/2025 7:08:22 AM ID: c4030468-f1bd-469f-aef7-d4fafdad899d	 Signature Adoption: Drawn on Device Using IP Address: 47.190.47.120 Signed using mobile	Sent: 5/13/2025 1:33:57 PM Resent: 5/14/2025 6:49:35 AM Viewed: 5/14/2025 7:08:22 AM Signed: 5/14/2025 7:08:32 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 5/14/2025 7:08:36 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None)		

Signer Events	Signature	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/13/2025 1:00:06 PM

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Electronic Record and Signature Disclosure

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

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

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

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

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File #: PUB25-087, **Version:** 1

AGENDA CAPTION

Management Reports

1. Future Agenda Items
2. New Business Action Items

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
June 9, 2025		
June 23, 2025	Financial Update	Finance
July 14, 2025	Budget Workshop	Finance
July 28, 2025	PUB to Consider recommending Utility Rates & Budget to Council	Finance
August 11, 2025		
August 25, 2025		
September 15, 2025		
September 29, 2025		
October 13, 2025		
October 27, 2025		
November 17, 2025		
December 15, 2025		

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.					

File #: PUB25-054, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, Texas establishing the schedule of rates for electric service; amending the Energy Cost Adjustment and Transmission Cost Recovery Factor Schedules to add rate schedule ECA LL for an Energy Cost Adjustment 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 schedules of rates.

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: **Denton Municipal Electric and Finance**

ACM: **Christine Taylor**

DATE: **June 9, 2025**

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, Texas establishing the schedule of rates for electric service; amending the Energy Cost Adjustment and Transmission Cost Recovery Factor Schedules to add rate schedule ECA LL for an Energy Cost Adjustment 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 schedules of rates.

BACKGROUND

Consistent with Ordinance 25-039, approved by City Council on April 1, 2025, DME has assessed the adequacy of the current Energy Cost Adjustment (ECA) rate of $.0462/kWh to maintain an ECA account balance over the next 12 months between +/- $10 Million. Through that analysis, staff determined that the +/- allowance needs to be increased to handle the continually fluctuating energy market. Energy Market pricing sees a significant spike during the summer months and in an effort to maintain somewhat levelized ECA pricing for customers, the buffer should be increased to +/- $20,000,000 which is based on 60 days Average Purchase Power Cost. Without this increase, staff would need to decrease the ECA next quarter but follow it up with a much higher increase the following quarter as we see summer pricing impacts.

In addition, to accommodate the unique purchase power requirements of Large Loads, staff recommends adding an ECA LL Schedule to separate the needs from the system purchase power requirements. Large Load is defined as Customers whose single metering point load is 20 MW or higher. The monthly review with quarterly adjustment, when necessary, will be the same as the system ECA. The ECA LL Account Balance buffer will be set from $0 to $20,000,000 based on 60 days forecasted purchase power cost. Staff recommends the initial rate be $0.0515/kWh and will go into effect July 1, 2025.

The current Transmission Cost Recovery Factor (TCRF) will be sufficient through the next quarter.

RECOMMENDATION

DME General Manager and Finance recommends adoption and approval of the Ordinance maintaining the current ECA and TCRF rates but modifying the upper and lower ECA fund balance limits to +/- $20 Million to be effective July 1, 2025. Staff also recommends adoption and approval of the Ordinance adding one new rate schedule. It will be the ECA LL rate schedule with a rate of $0.0515/kWh and an ECA LL Account Balance buffer of $0 - $20,000,000 to go into effect July 1, 2025.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Rate Ordinance Redline
Exhibit 3: Rate Ordinance
Exhibit 4: Presentation

Respectfully submitted:
Antonio Puente, Jr.
DME General Manager

Jessica Williams
Chief Financial Officer

Prepared By:
Bill Shepherd
DME Executive Manager of Business Services

Vis Bouaphanthavong
Assistant Director of Finance

ORDINANCE NO. 2025-_____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS ESTABLISHING THE SCHEDULE OF RATES FOR ELECTRIC SERVICE; AMENDING THE ENERGY COST ADJUSTMENT AND TRANSMISSION COST RECOVERY FACTOR SCHEDULES TO ADD RATE SCHEDULE ECA LL FOR AN ENERGY COST ADJUSTMENT 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 SCHEDULES OF RATES.

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Schedule of Rates for electrical services as provided for in Chapter 26 of the City of Denton Code of Ordinances, is as follows:

ELECTRIC RATE SCHEDULES

		PAGE
RES	Residential Service	2
GS	General Service Small	4
GM	General Service Medium	6
GL	General Service Large	8
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GOS	Local Government Service Small	12
GOM	Local Government Service Medium	14
GOL	Local Government Service Large	16
T1	Temporary Service	18
AF	Athletic Field	20
LS	Street Lighting	22
LT	Traffic Lighting	23
UFL	Unmetered School Zone/Crossing Flashers	24
USC	Unmetered Security Camera	25
UWF	Unmetered Wi-Fi Devices	26
LO	Other Lighting	27
DD	Security Lighting	28
DSL	Non-Standard Street Lighting	30
EGR	Economic Growth Rider	32
GIP	GreenSense Incentive Program	34
ECA	Energy Cost Adjustment	35
ECA LL	Energy Cost Adjustment for Large Loads	36
TCRF	Transmission Cost Recovery Factor	37~~6~~
DGR	Distributed Generation From Renewable Sources Rider	39~~38~~
SFR	Special Facilities Rider	41~~0~~
PAF	Pole Attachment Fee	42~~1~~
BIF	Banner Install Fee	44~~3~~
WNA	Wireless Node Attachments	45~~4~~
EVCR	Electric Vehicle Charging Rate	47~~6~~
WTS	Wholesale Transmission Service	48~~7~~

SCHEDULE ECA

ENERGY COST ADJUSTMENT
(Effective 047/01/25)

The Energy Cost Adjustment (ECA) Rate shall be set to recover the net cost of energy delivered to Customers that are not Large Load Customers and to maintain the City's electric utility in a financially sound position.

NET MONTHLY RATE

(1) **Energy Cost Adjustment Charge** **$0.0462 per kWh**

ENERGY COST ADJUSTMENT BALANCING ACCOUNT CALCULATION

The ECA Balancing Account shall be calculated using the following formula:

ECA Balancing Account = (Beginning ECA Account Balance) – (Projected Net Energy Cost)

Where:

Projected Net Energy Cost = For the next fiscal quarter, the electric utility's projected cost of electric load purchases from ERCOT plus all projected electric utility power/energy related costs for that same period including, but not limited to, power production (excluding the Denton Energy Center debt); purchased power; applicable transmission services, losses and congestion; other ERCOT charges; renewable energy credits; and financial and/or physical power/energy trades (including natural gas); less all projected revenue to be received by the electric utility for power/energy related sales and/or trades; plus applicable Franchise Fees and required ROI.

ENERGY COST ADJUSTMENT CALCULATION

ECA = [(Projected Net Energy Cost) + (ECA Balancing Account)] / (Projected kWh sales)

ENERGY COST ADJUSTMENT CHARGE

The Energy Cost Adjustment Charge shall be based on actual kWh consumption during the billing period. Energy Cost Adjustment Charge = kWh × ECA Rate

The General Manager of the City's electric utility or their designee shall calculate the ECA Balancing Account monthly. In the event that the ECA Balancing Account calculated during the last month of each fiscal quarter (December, March, June, and September) is projected to be over or under collected by $~~10~~20,000,000 or more at the end of the next 4 quarters, the General Manager or their designee may recommend to the PUB and City Council a revision to the ECA to maintain the City's electric utility in a financially sound position. Any change to the ECA will be placed on the City Council's consent agenda.

SCHEDULE ECA LL

ENERGY COST ADJUSTMENT FOR LARGE LOADS
(Effective 07/01/25)

The Energy Cost Adjustment (ECA) for Large Loads (LL) Rate shall be set to recover the net cost of energy delivered to Large Load Customers and to maintain the City's electric utility in a financially sound position. This rate applies to all Large Load customers regardless of their actual monthly usage. Large Load Customers are defined as customers whose planned or actual single point of delivery meets or exceeds 20MW.

NET MONTHLY RATE

(1) **Energy Cost Adjustment for Large Load Charge** **$0.0515 per kWh**

ENERGY COST ADJUSTMENT BALANCING ACCOUNT CALCULATION

The ECA Balancing Account shall be calculated using the following formula:

ECA Balancing Account = (Beginning ECA LL Account Balance) – (Projected Net Energy Cost for Large Load)

Where:

Projected Net Energy Cost = For the next fiscal quarter, the electric utility's projected cost of electric load purchases from ERCOT to feed Large Loads plus all projected Large Load related electric utility power/energy related costs for that same period including, but not limited to, purchased power; applicable transmission services, losses and congestion; other ERCOT charges; renewable energy credits; and financial and/or physical power/energy trades (including natural gas); less all projected revenue to be received by the electric utility for Large Load related power/energy related sales and/or trades; plus applicable Franchise Fees and required ROI.

ENERGY COST ADJUSTMENT CALCULATION
ECA LL = [(Projected Large Load Net Energy Cost) + (ECA LL Balancing Account)] / (Projected Large Load kWh sales)

ENERGY COST ADJUSTMENT CHARGE

The Energy Cost Adjustment Large Load Charge shall be based on actual kWh consumption during the billing period. Energy Cost Adjustment Charge for Large Load = kWh × ECA LL Rate

The General Manager of the City's electric utility or their designee shall calculate the ECA LL Balancing Account monthly. In the event that the ECA LL Balancing Account calculated during the last month of each fiscal quarter (December, March, June, and September) is projected to be below $0 to $20,000,000 or more at the end of the next 4 quarters, the General Manager or their designee may recommend to the PUB and City Council a revision to the ECA LL to maintain the City's electric utility in a financially sound position. Any change to the ECA LL will be placed on the City Council's consent agenda.

ORDINANCE NO. 2025-_____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS ESTABLISHING THE SCHEDULE OF RATES FOR ELECTRIC SERVICE; AMENDING THE ENERGY COST ADJUSTMENT AND TRANSMISSION COST RECOVERY FACTOR SCHEDULES TO ADD RATE SCHEDULE ECA LL FOR AN ENERGY COST ADJUSTMENT 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 SCHEDULES OF RATES.

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Schedule of Rates for electrical services as provided for in Chapter 26 of the City of Denton Code of Ordinances, is as follows:

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PAF	Pole Attachment Fee	42
BIF	Banner Install Fee	44
WNA	Wireless Node Attachments	45
EVCR	Electric Vehicle Charging Rate	47
WTS	Wholesale Transmission Service	48

RESIDENTIAL ELECTRIC SERVICE
(Effective 07/01/25)

APPLICATION

Applicable to any Customer for all electric service used for residential purposes in an individual private dwelling or an individually metered apartment, supplied at one point of delivery and measured through one meter. This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Single-Phase Service (**R2**)	$ 8.80
	Three-Phase Service (**R2**)	$17.59
	Prepaid Service (**P2**)	$16.26

plus;

(2)	**Usage Charge**	**Per kWh**
	Winter (Billing months of November through April):	
	Tier 1: First 600 kWh	$0.0694
	Tier 2: Additional kWh	$0.0462
	Summer (Billing months of May through October):	
	Tier 1: All kWh	$0.0694

plus;

(3)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

plus;

(4)	**Transmission Cost Recovery Factor**	**See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge as a minimum, regardless of actual energy usage.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Winter (Billing months of November through April):

Usage Charge = kWh in Tier 1 × Tier 1 Rate per kWh
kWh in Tier 2 × Tier 2 Rate per kWh, if applicable

Summer (Billing months of May through October):

Usage Charge = All kWh × Tier 1 Rate per kWh

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE GS

GENERAL SERVICE SMALL
(Effective 07/01/25)

APPLICATION

Applicable to any commercial customer having a maximum demand of less than 21 kW in each of the previous twelve (12) months for all electric service supplied at one point of delivery and measured through one meter. If the demand is equal to or exceeds 21 kW in two consecutive months, account will be adjusted to bill under General Service Medium (GM) and the Customer must remain on the GSM rate for a minimum of twelve (12) billing periods. This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Single-Phase	$16.85
	Three-Phase	$22.50

plus;

(2)	**Usage Charge**	**Per kWh**
	Tier 1: First 2,500 kWh	$0.0865
	Tier 2: Additional kWh	$0.0453

plus;

(3)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

plus;

(4)	**Transmission Cost Recovery Factor**	**See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge as a minimum, regardless of actual energy usage.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = kWh in Tier 1 × Tier 1 Rate per kWh
kWh in Tier 2 × Tier 2 Rate per kWh, if applicable

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE GM

GENERAL SERVICE MEDIUM
(Effective 07/01/25)

APPLICATION

Applicable to any commercial customer having a maximum demand that meets or exceeds 21 kW but less than 240 kW in each of the previous twelve (12) months for all electric service supplied at one point of delivery and measured through one meter. If the demand is equal to or exceeds 240 kW in two consecutive months, account will be adjusted to bill under General Service Large (GSL), and the Customer must remain on the GSL rate for a minimum of twelve (12) billing periods.

Applicable to GSM Customers utilizing City owned and operated facilities and transformation equipment and who are metered at primary voltage. (**GM2**)

Applicable to GSM Customers that own, operate, and maintain all facilities necessary to receive three-phase primary voltage service and all transformation facilities required for conversion to utilization voltage. (**GM3**)

This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**		**Per Bill**
		Single-Phase	$16.85
		Three-Phase	$22.50

plus;

(2)	**Demand Charge**		**Per kW**
		All kW	$4.85

plus;

(3)	**Usage Charge**		**Per kWh**
	GM	Tier 1: First 6,000 kWh	$0.0531
		Tier 2: Additional kWh	$0.0438
	GM2	Tier 1: First 6,000 kWh	$0.0521
		Tier 2: Additional kWh	$0.0428
	GM3	Tier 1: First 6,000 kWh	$0.0500
		Tier 2: Additional kWh	$0.0408

plus;

(4) **Energy Cost Adjustment Charge** **See Schedule ECA**

plus;

(5) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge plus the Demand Charge, regardless of actual energy usage.

DETERMINATION OF DEMAND

The demand used in calculating the Demand Charge for the billing period shall be the greater of: (1) the actual monthly kW demand as measured during the fifteen (15) minute period of maximum use each month; or (2) 21 kW; or (3) seventy percent (70%) of the maximum monthly actual demand for any month during the previous billing months of May through October in the twelve (12) months ending with the current month.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = kWh in Tier 1 × Tier 1 Rate per kWh
kWh in Tier 2 × Tier 2 Rate per kWh, if applicable

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE GL

GENERAL SERVICE LARGE
(Effective 07/01/25)

APPLICATION

Applicable to any commercial customer having a minimum demand of 240 kW for all electric service supplied at one point of delivery and measured through one meter. Customers who elect to discontinue service under this Rate are ineligible for service under this Rate for twelve (12) months.

Applicable to GSL Customers utilizing City owned and operated facilities and transformation equipment and who are metered at primary voltage. (**GL2**)

Applicable to GSL Customers that own, operate, and maintain all facilities necessary to receive three-phase primary voltage service and all transformation facilities required for conversion to utilization voltage. (**GL3**)

This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**		**Per Bill**
		Three-Phase	$70.10

plus;

(2)	**Demand Charge**		**Per kVA**
		All kVA	$10.96

plus;

(3)	**Usage Charge**		**Per kWh**
	GL	Tier 1: First 200,000 kWh	$0.0249
		Tier 2: Additional kWh	$0.0142
	GL2	Tier 1: First 200,000 kWh	$0.0239
		Tier 2: Additional kWh	$0.0132
	GL3	Tier 1: First 200,000 kWh	$0.0218
		Tier 2: Additional kWh	$0.0112

plus;

(4) **Energy Cost Adjustment Charge** **See Schedule ECA**

plus;

(5) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge plus the Demand Charge, regardless of actual energy usage.

DETERMINATION OF DEMAND

The demand used in calculating the Demand Charge for the billing period shall be the greater of: (1) the actual monthly kVA demand as measured during the fifteen (15) minute period of maximum use each month; or (2) 250 kVA; or (3) seventy percent (70%) of the maximum monthly kVA actual demand for any month during the previous billing months of May through October in the twelve (12) month period ending with the current month.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = kWh in Tier 1 × Tier 1 Rate per kWh
kWh in Tier 2 × Tier 2 Rate per kWh, if applicable

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE TG

GENERAL SERVICE TIME OF USE
(Effective 07/01/25)

APPLICATION

Applicable to any Customer having a minimum demand of 240 kW for all electric service supplied at one point of delivery and measured through one meter. Customers electing this Rate must remain on this Rate for a minimum of twelve (12) continuous billing months. If the Customer is new or does not have a history of on-peak use for June through September, and elects to accept service on the TGS Rate, the Customer's demand shall be billed at the GSL Demand Rate until the Customer establishes a separate on-peak and off-peak demand during an on-peak month.

Applicable to TGS Customers utilizing City owned and operated facilities and transformation equipment and who are metered at primary voltage. (**TG2**)

Applicable to TGS Customers that own, operate, and maintain all facilities necessary to receive three-phase primary voltage service and all transformation facilities required for conversion to utilization voltage. (**TG3**)

This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Three-Phase	$81.75

plus;

(2)	**Demand Charge**	**Per kVA**
	On-Peak	$13.97
	Off-Peak	$ 2.76

plus;

(3)	**Usage Charge**		**Per kWh**
	TG	All kWh	$0.0083
	TG2	All kWh	$0.0073
	TG3	All kWh	$0.0053

plus;

(5)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

plus;

(6) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge plus the On-Peak and Off-Peak Demand Charges, regardless of actual energy usage.

DEFINITION OF TIME OF USE HOURS

The City's on-peak hours, for the purpose of this rate schedule, are designated as being from 2:00 P.M. to 7:00 P.M. each Monday through Friday, for the months of June through September excluding Independence Day and Labor Day. The City's on-peak hours may be changed from time to time.

The City's off-peak hours, for the purpose of this rate schedule, shall be all hours not designated as on-peak hours.

DETERMINATION OF DEMAND

On-Peak Demand Charge for the billing period shall be the greater of: (1) the kVA actual demand supplied during the fifteen (15) minute period of maximum use each month during on-peak hours as recorded by the City's demand meter; or (2) 250 kVA; or (3) one hundred percent (100%) of the actual maximum on-peak demand similarly determined during the billing months of June through September in the twelve (12) months immediately preceding the current month. The On-Peak Demand Charge will be applied to each billing period.

Off-Peak Demand Charge for the billing period shall be the greater of: (1) the kVA actual demand supplied during the fifteen (15) minute period of maximum use each month during on-peak hours as recorded by the City's demand meter; or (2) 250 kVA. The Off-Peak Demand Charge will be applied to each billing period.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = All kWh × Rate per kWh

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer’s service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE GOS

LOCAL GOVERNMENT SERVICE SMALL
(Effective 07/01/25)

APPLICATION

Applicable to any local City, County or School District customer having a maximum demand of less than 21 kW in each of the previous twelve (12) months for all electric service supplied at one point of delivery and measured through one meter. If the demand equals or exceeds 21 kW in two consecutive months, account will be adjusted to bill under Local Government Service Medium (GOM), and the Customer must remain on the GOM Rate for a minimum of twelve (12) billing periods. This Rate is not applicable to resale service in any event, or to temporary, standby or supplementary service.

NET MONTHLY RATE

Facility Charge		**Per Bill**
	Single-Phase	$16.85
	Three-Phase	$22.50

plus;

(2) **Usage Charge**		**Per kWh**
	Tier 1: First 2,500 kWh	$0.0865
	Tier 2: Additional kWh	$0.0453

plus;

(3) **Energy Cost Adjustment Charge** **See Schedule ECA**

plus;

(4) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge as a minimum, regardless of actual energy usage.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = All kWh × Rate per kWh

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE GOM

LOCAL GOVERNMENT SERVICE MEDIUM
(Effective 07/01/25)

APPLICATION

Applicable to any local City, County, or School District customer having a maximum demand that meets or exceeds 21 kW but less than 240 kW in each of the previous twelve (12) months for all electric service supplied at one point of delivery and measured through one meter. If the demand is equal to or exceeds 240 kW in two consecutive months, account will be adjusted to bill under Local Government Service Large (GOL), and the customer must remain on the GOL rate for a minimum of twelve (12) billing periods. This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

NET MONTHLY RATE

(1) **Facility Charge**		**Per Bill**
	Single-Phase	$16.85
	Three-Phase	$22.50

plus;

(2) Demand Charge		**Per kW**
	All kW	$4.85

plus;

(3) **Usage Charge**		**Per kWh**
	Tier 1: First 6,000 kWh	$0.0531
	Tier 2: Additional kWh	$0.0438

plus;

(4) **Energy Cost Adjustment Charge** **See Schedule ECA**

plus;

(5) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge plus the Demand Charge, regardless of actual energy usage.

DETERMINATION OF DEMAND

The demand used in calculating the Demand Charge for the billing period shall be the greater of: (1) The actual kW demand supplied during the fifteen (15) minute period of maximum use each month; or (2) fifty percent (50%) of the maximum monthly actual demand for any month during the previous billing months of May through October in the twelve (12) months ending with the current month.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = kWh in Tier 1 kWh × Rate per kWh
kWh in Tier 2 kWh x Rate per kWh, if applicable

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

The due date for the payment of the bill for utility services shall not be less than ten (10) business days after issuance.

SCHEDULE GOL

LOCAL GOVERNMENT SERVICE LARGE
(Effective 07/01/25)

APPLICATION

Applicable to any local City, County, or School District customer having a minimum demand of 240 kW for all electric service supplied at one point of delivery and measured through one meter. Customers who elect to discontinue service under this Rate are ineligible for service under this Rate for twelve (12) months.

Applicable to GOL Customers utilizing City owned and operated facilities and transformation equipment and who are metered at primary voltage. (**GO2**)

Applicable to GOL Customers that own, operate, and maintain all facilities necessary to receive three-phase primary voltage service and all transformation facilities required for conversion to utilization voltage. (**GO3**)

This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service.

MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Three-Phase	$70.10

plus;

(2)	**Demand Charge**	**Per kVA**
	All kVA	$10.96

plus;

(3)	**Usage Charge**		**Per kWh**
	GOL	Tier 1: First 200,000 kWh	$0.0249
		Tier 2: Additional kWh	$0.0142
	GO2	Tier 1: First 200,000 kWh	$0.0239
		Tier 2: Additional kWh	$0.0132
	GO3	Tier 1: First 200,000 kWh	$0.0218
		Tier 2: Additional kWh	$0.0112

plus;

(4) **Energy Cost Adjustment Charge** **See Schedule ECA**

plus;

(5) **Transmission Cost Recovery Factor** **See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge plus the Demand Charge, regardless of actual energy usage.

DETERMINATION OF DEMAND

The demand used in calculating the Demand Charge for the billing period shall be the greater of: (1) the actual monthly kVA demand as measured during the fifteen (15) minute period of maximum use each month; or (2) fifty percent (50%) of the maximum monthly kVA actual demand for any month during the previous billing months of May through October in the twelve (12) month period ending with the current month.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = kWh in Tier 1 × Tier 1 Rate per kWh
kWh in Tier 2 × Tier 2 Rate per kWh, if applicable

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE T1

TEMPORARY SERVICE
(Effective 07/01/25)

APPLICATION

Applicable to short term or temporary electric service where a Customer has received a permit. This Rate is not applicable after the certificate of occupancy or building final inspection has been issued.

NET MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Single-Phase	$16.86
	Three-Phase	$22.52

plus;

(2)	**Usage Charge**	**Per kWh**
	All kWh	$0.0867

plus;

(3)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

plus;

(4)	**Transmission Cost Recovery Factor**	**See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge regardless of actual energy usage.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = All kWh × Rate per kWh

ADDITIONAL TEMPORARY SERVICE CHARGES

Labor	Regular time or overtime labor hourly rates in effect at the time the work is performed for all personnel performing the work. Labor charges shall be based on a one (1) hour minimum with all additional time above the minimum to be measured to the nearest one-quarter hour.
Transportation	To be billed by hours or miles, as applicable, according to the estimated cost of operating the required equipment.
Material	Material that cannot be salvaged shall be billed at the City's Warehouse cost plus twenty five percent (25%), plus applicable sales tax. At the time a temporary service is removed or converted, any loss of the installed material due to negligence or willful action by the Customer will be billed separately to the Customer at replacement cost plus twenty five percent (25%), plus applicable sales tax.
Administrative Fee	Ten percent (10%) of the total labor, transportation, and material costs.

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE AF

ATHLETIC FIELD
(Effective 07/01/25)

APPLICATION

Applicable to all electric service metered at one point for use to light specified areas for athletic events. This Rate is not applicable to resale service in any event, or to temporary, standby, or supplementary service except in conjunction with applicable rider.

NET MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Single-Phase	$23.09
	Three-Phase	$34.62

plus;

(2)	**Demand Charge**	**Per kW**
	On-Peak	$6.15
	Off-Peak	$1.46

plus:

(3)	**Usage Charge**	**Per kWh**
	On-Peak	$0.0992
	Off-Peak	$0.0496

plus;

(4)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

plus;

(5)	**Transmission Cost Recovery Factor**	**See Schedule TCRF**

MINIMUM BILLING

For each billing period, the Customer shall be obligated to pay the Facility Charge, regardless of actual energy usage.

DEFINITION OF ON-PEAK AND OFF-PEAK HOURS

The City's on-peak hours, for the purpose of this rate schedule, are designated as being from 2:00 P.M. to 7:00 P.M., for the months of June through September. The City's on-peak hours may be changed from time to time.

The City's off-peak hours, for the purpose of this rate schedule, shall be all hours not designated as on-peak hours.

DETERMINATION OF DEMAND

The demand used in calculating the Demand Charge for the billing period shall be the actual kW demand supplied during the fifteen (15) minute period of maximum use during the current billing period as determined by the City's demand meter.

USAGE CHARGE

Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.

Usage Charge = On-Peak kWh × Rate per kWh
Off Peak kWh × Rate per kWh

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE LS

STREET LIGHTING
(Effective 07/01/25)

APPLICATION

Applicable to all street lighting owned and maintained by the City.

NET MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Luminaire Style Type	
	100 W Sodium Cobra (LSA)	$6.17
	250 W Sodium Cobra (LSB)	$8.75
	400 W Sodium Cobra (LSC)	$11.02
	100 W LED Cobra (LSD)	$6.17
	250 W LED Cobra (LSE)	$8.75
	400 W LED Cobra (LSF)	$11.02
	85 W LED Post (LSG)	$11.02

plus;

(2)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

ENERGY COST ADJUSTMENT CHARGE

Current ECA multiplied by respective kWh based on the following Bulb Wattage Factors:

Luminaire Type	Bulb Wattage Factor
100 W Sodium (LSA)	48 kWh
250 W Sodium (LSB)	105 kWh
400 W Sodium (LSC)	159 kWh
100 W LED (LSD)	25 kWh
250 W LED (LSE)	96 kWh
400 W LED (LSF)	148 kWh
85 W LED (LSG)	23 kWh

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

TRAFFIC LIGHTING
(Effective 07/01/25)

APPLICATION

Applicable to State and Local Government agencies that operate and maintain their own traffic signals.

METERED TRAFFIC LIGHTING NET MONTHLY RATE (LT)

(1)	Usage Charge	$0.0674 per kWh

plus;

(2)	Energy Cost Adjustment Charge	See Schedule ECA

plus;

(3)	Transmission Cost Recovery Factor	See Schedule TCRF

USAGE CHARGE
Billing for the Metered Traffic Lighting Usage Charge shall be based on actual kWh consumption during the billing period. Usage Charge = All kWh x Rate per kWh

UNMETERED TRAFFIC LIGHTING NET ANNUAL RATE (ULT)

(1)	Usage Charge	$0.0674 per kWh

plus;

(2)	Energy Cost Adjustment Charge	See Schedule ECA

plus;

(3)	Transmission Cost Recovery Factor	See Schedule TCRF

USAGE CHARGE
Billing for the Unmetered Traffic Lighting Usage Charge shall be based on historical recorded annual kWh consumption. Usage Charge = All kWh x Rate per kWh

Annual Usage = 904 kWh per account

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE UFL

UNMETERED SCHOOL ZONE/CROSSING FLASHERS
(Effective 07/01/25)

APPLICATION

Applicable to local government agencies that operate and maintain their own unmetered school zone/crossing flashers.

NET ANNUAL RATE

(1)	Usage Charge	$0.0674per kWh
plus;		
(2)	Energy Cost Adjustment Charge	See Schedule ECA
plus;		
(3)	Transmission Cost Recovery Factor	See Schedule TCRF

USAGE CHARGE

Billing for the Usage Charge shall be based on historical recorded annual kWh consumption. The total billed usage divided by number of school zone/crossing flashers will determine the average kWh usage. This average consumption will be billed for each school zone/crossing flasher once every twelve (12) months at the end of the fiscal year. Any accounts that are added during the year will be billed on prorated consumption.

Usage Charge = All kWh × Rate per kWh

Annual Usage = 48 kWh per account

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE USC

UNMETERED SECURITY CAMERA
(Effective 07/01/25)

APPLICATION

Applicable to Local Government agencies that operate and maintain their own unmetered security cameras.

NET ANNUAL RATE

(1)	Facility Charge	$18.09 per bill
plus;		
(2)	Usage Charge	$0.0674per kWh
plus;		
(3)	Energy Cost Adjustment Charge	See Schedule ECA
plus;		
(1)	Transmission Cost Recovery Factor	See Schedule TCRF

USAGE CHARGE

Billing for the Usage Charge shall be based on technical information of installed equipment. This calculated consumption will be billed for each camera once every twelve (12) months at the end of the fiscal year. Any accounts that are added during the year will be billed on prorated consumption.

Usage Charge = annual kWh per camera × kWh Rate

Annual Usage = 300 kWh per camera per account

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE UWF

UNMETERED WI-FI DEVICES
(Effective 07/01/25)

APPLICATION

Applicable to local government agencies that operate and maintain their own unmetered Wi-Fi devices.

NET ANNUAL RATE

(1)	Facility Charge	$18.09 per bill
plus;		
(2)	Usage Charge	$0.0674 per kWh
plus;		
(3)	Energy Cost Adjustment Charge	See Schedule ECA
plus;		
(4)	Transmission Cost Recovery Factor	See Schedule TCRF

USAGE CHARGE

Billing for the Usage Charge shall be based on technical information of installed equipment. This calculated consumption will be billed for each device once every twelve (12) months at the end of the fiscal year. Any accounts that are added during the year will be billed on prorated consumption.

Usage Charge = annual kWh per device × kWh Rate

Annual Usage = 300 kWh per device per account

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE LO

OTHER LIGHTING
(Effective 07/01/25)

APPLICATION

Applicable to Texas Department of Transportation unmetered and metered safety lighting systems and continuous lighting systems as those terms are defined in Texas Administrative Code, Title 43, Part 1, Chapter 25, Subchapter A, Rule §25.11.

METERED LIGHTING NET MONTHLY RATE (LOB)

(1)	Usage Charge	$0.0674 per kWh

plus;

(2)	Energy Cost Adjustment Charge	See Schedule ECA

METERED LIGHTING USAGE CHARGE (LOB)
Billing for the Usage Charge shall be based on actual kWh consumption during the billing period.
Usage Charge = All kWh × Rate per kWh

UNMETERED LIGHTING NET MONTHLY RATE (LOA)

(1)	Usage Charge	$0.0674 per kWh

plus;

(2)	Energy Cost Adjustment Charge	See Schedule ECA

UNMETERED LIGHTING USAGE CHARGE (LOA)
Billing for the Usage Charge shall be based on estimated kWh consumption during the billing period.
Usage Charge = (kWh Rate x Bulb Wattage/1000) x (Hours of Operation per Billing Period)

Hours of Operation per Billing Period = 333 hours
Bulb Wattage is the rated wattage of the luminaire bulb

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE DD

SECURITY LIGHTING
(Effective 07/01/25)

APPLICATION

Applicable to all outdoor area lighting when such lighting facilities are operated as an extension of the City's distribution system.

NET MONTHLY RATE

(1)	**Facility Charge**	**Per Bill**
	Luminaire Type	
	100 W Sodium Vapor (DSA)	$ 9.75
	250 W Sodium Vapor (DSB)	$12.90
	400 W Sodium Vapor (DSC)	$15.55
	250 W Metal Halide (DHA)	$15.17
	400 W Metal Halide (DHB)	$18.09
	100 W Equivalent LED (DSD)	$ 9.75
	250 W Equivalent LED (DSE)	$12.90
	400 W Equivalent LED (DSF)	$15.55

plus;

(2)	**Energy Cost Adjustment Charge**	**See Schedule ECA**

ENERGY COST ADJUSTMENT CHARGE

Current ECA multiplied by respective kWh based on the following Bulb Wattage Factors:

Luminaire Type	Bulb Wattage Factor
100 W Sodium Vapor (DSA)	48 kWh
250 W Sodium Vapor (DSB)	105 kWh
400 W Sodium Vapor (DSC)	159 kWh
250 W Metal Halide (DHA)	105 kWh
400 W Metal Halide (DHB)	159 kWh
100 W Equivalent LED (DSD)	25 kWh
250 W Equivalent LED (DSE)	96 kWh
400 W Equivalent LED (DSF)	148 kWh

TYPE OF SERVICE

The City shall furnish, install, maintain and deliver electric service to automatically controlled lighting fixtures conforming to the City's standards and subject to its published rules and regulations.

Where necessary for proper illumination or where existing poles are inadequate, the City will install or cause to be installed, one (1) wood pole with the necessary lighting hardware and overhead conductor for each installed light, at a distance not to exceed eighty (80') feet from existing lines, at no charge to the Customer. Additional contractual arrangements between the City and the Customer are subject to the Special Facilities Rider.

TERM OF CONTRACT

A two (2) year contract shall be agreed to and signed by each Customer desiring security lighting service authorizing fixed monthly charges, which may be reviewed annually, and to be applied to the Customer's monthly municipal utilities bill. In the event that a Customer requests the removal of the unit or discontinuance of the service prior to completion of two (2) years, the remainder of the contract period shall become due and payable. After the end of the initial two (2) year contract, service shall continue on a month-to-month basis and may be canceled by either party upon thirty (30) days' notice.

SPECIAL FACILITIES

All services which require special facilities in order to meet Customer's service requirements shall be provided, subject to Special Facilities Rider.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE DSL

NON-STANDARD STREET LIGHTING
(Effective 07/01/25)

APPLICATION

Applicable to street lighting owned and maintained by the Customer. Availability of this service is contingent on the existence of an executed Special Facilities Rider between the legally responsible party and the City under which the legally responsible party accepts all responsibilities, both legal and financial, related to operation and maintenance of the subject lights, including but not limited to payment of all applicable energy charges.

NET MONTHLY RATE

(1)	Facility Charge	$ 9.32 per bill

plus;

(2)	Usage Charge	$0.0674per kWh

plus;

(3)	Energy Cost Adjustment Charge	See Schedule ECA

USAGE CHARGE

Current usage charge and ECA rates are multiplied by respective kWh based on the following Bulb Wattage Factors:

Luminaire Type	Bulb Wattage Factor
100 W Sodium Vapor (DLSA)	48 kWh
250 W Sodium Vapor (DLSB)	105 kWh
400 W Sodium Vapor (DLSC)	159 kWh
250 W Metal Halide (DLHA)	105 kWh
400 W Metal Halide (DLHB)	159 kWh

ADDITIONAL SERVICE CHARGES

If the City is required to maintain the privately owned lights to ensure public safety, the owner of the lights may be subject to additional service charges. The additional service charges shall be the actual cost of performing any work required to perform the necessary maintenance including but not limited to:

Labor Regular time or overtime labor hourly rates in effect at the time the work is

	performed for all personnel performing the work. Labor charges shall be based on a one (1) hour minimum with all additional time above the minimum to be measured to the nearest one-quarter hour.
Transportation	To be billed by hours or miles, as applicable, according to the estimated cost of operating the required equipment.
Material	Any material needed to repair and/or maintain facilities will be billed at City Warehouse cost plus twenty five percent (25%).
Administrative Fee	Ten percent (10%) of the total labor, transportation, and material costs.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE EGR

ECONOMIC GROWTH RIDER
(Effective 07/01/25)

PURPOSE

The purpose of this Rider is to facilitate local economic growth and expand the ad valorem tax base of the City.

AVAILABILITY

This Rider is available to the Customers who:

(1) Receive service from Rate Schedules GSL or TGS; and

(2) Pay City ad valorem tax; and

(3) Receive no electric service discounts other than those specifically defined in the GSL or TGS Rate Schedules.

APPLICATION

This Rider is available to electric service supplied at any one location. It is for firm electric service applicable to new and existing customers as described below, over a five (5) year period. This Rider is available to the following classes of customers:

(1) New Customers whose electric service represents demand not previously served by the City at any location in the City's service area in the last twelve (12) months, where such metered demand will be in excess of 1,000 kVA and customer load factor must be greater than the City's electric system load factor, as estimated and mutually agreed upon by the General Manager of the City's electric utility and the Customer.

(2) Existing Customers served under Rate Schedules GSL or TGS who increase their prior existing metered demand by 1,000 kVA and customer load factor must be greater than the City's electric system load factor. This increase shall be verified by sub-metering (at the Customer's expense) the additional load. If sub-metering is not possible, at the discretion of the General Manager of the City's electric utility, the increase may be verified by comparing a three-month rolling average of the new level of demand to the prior demand averaged for corresponding months. During periods in which this verification method cannot be applied, the General Manager and the Customer may develop a mutually agreed-upon formula to estimate the base and additional demand levels.

In light of additional costs associated with the Economic Growth Rider and to mitigate potential risk to ratepayers, any participant in the Economic Growth Rider must be, at the time this Rider is applied for and continuing while such Rider is in effect, a Customer in good standing of all City utilities, including solid waste services. Unless legal review procedures have been invoked in good faith regarding the obligation, a Customer in good standing for the purpose of this Rider is defined as a Customer not owing any unpaid utility or solid waste debt obligation that is over forty-five (45) days past due to the City during the previous twelve (12) months.

NET MONTHLY RATE

The Customer shall be charged under the appropriate applicable rate schedules with the exception that the monthly billing demand (for the GSL Rate) or system demand and on-peak demand (for the TGS Rate) will be adjusted in accordance with the following table:

Time Period	Reduction to Billing Demand
First Year	50%
Second Year	40%
Third Year	30%
Fourth Year	20%
Fifth Year	10%

CONTRACT PERIOD

The term of the contract will be for five (5) years.

SCHEDULE GIP

GREENSENSE INCENTIVE PROGRAM
(Effective 07/01/25)

PROGRAM SUMMARY

The objective of the GreenSense Incentive Program ("Program") is to reduce energy demand and consumption by promoting energy conservation, thereby reducing the utility bills of City Customers, reducing the peak load of the City's electric system, reducing emissions in the state, and promoting energy conservation. The Program offers incentives that may be distributed in the form of credits on the electric service bills or cash incentives to City retail customers.

Any participant in the GreenSense Incentive Program must be, at the time this program is applied for and continuing while such program is in effect, a Customer in good standing of all City utilities, including solid waste services. Unless legal review procedures have been invoked in good faith regarding the obligation, a Customer in good standing for the purpose of this Program is defined as a Customer not owing any unpaid utility or solid waste debt obligation that is over forty-five (45) days past due to the City during the previous twelve (12) months.

Program applicants will be able to qualify for multiple incentives simultaneously, unless specified in the individual guidelines. A separate application may be necessary for each incentive. The Program will be in effect each fiscal year beginning on October 1, until the allotted funding is depleted or until cancellation of the program by the City. At the time the funds are depleted, no additional applications for participation will be accepted until the next fiscal year.

Qualifying applicants must receive electric service from the City. The program guidelines and payment provisions are subject to change by the City without prior notice. The City may, at any time, discontinue the Program without prior notice. The current program guidelines may be found in the GreenSense Incentive Program Manual located at www.cityofdenton.com.

SCHEDULE ECA

ENERGY COST ADJUSTMENT
(Effective 07/01/25)

The Energy Cost Adjustment (ECA) Rate shall be set to recover the net cost of energy delivered to Customers that are not Large Load Customers and to maintain the City's electric utility in a financially sound position.

NET MONTHLY RATE

(1) **Energy Cost Adjustment Charge** **$0.0462 per kWh**

ENERGY COST ADJUSTMENT BALANCING ACCOUNT CALCULATION

The ECA Balancing Account shall be calculated using the following formula:

ECA Balancing Account = (Beginning ECA Account Balance) – (Projected Net Energy Cost)

Where:

Projected Net Energy Cost = For the next fiscal quarter, the electric utility's projected cost of electric load purchases from ERCOT plus all projected electric utility power/energy related costs for that same period including, but not limited to, power production (excluding the Denton Energy Center debt); purchased power; applicable transmission services, losses and congestion; other ERCOT charges; renewable energy credits; and financial and/or physical power/energy trades (including natural gas); less all projected revenue to be received by the electric utility for power/energy related sales and/or trades; plus applicable Franchise Fees and required ROI.

ENERGY COST ADJUSTMENT CALCULATION

ECA = [(Projected Net Energy Cost) + (ECA Balancing Account)] / (Projected kWh sales)

ENERGY COST ADJUSTMENT CHARGE

The Energy Cost Adjustment Charge shall be based on actual kWh consumption during the billing period. Energy Cost Adjustment Charge = kWh × ECA Rate

The General Manager of the City's electric utility or their designee shall calculate the ECA Balancing Account monthly. In the event that the ECA Balancing Account calculated during the last month of each fiscal quarter (December, March, June, and September) is projected to be over or under collected by $20,000,000 or more at the end of the next 4 quarters, the General Manager or their designee may recommend to the PUB and City Council a revision to the ECA to maintain the City's electric utility in a financially sound position. Any change to the ECA will be placed on the City Council's consent agenda.

SCHEDULE ECA LL

ENERGY COST ADJUSTMENT FOR LARGE LOADS
(Effective 07/01/25)

The Energy Cost Adjustment (ECA) for Large Loads (LL) Rate shall be set to recover the net cost of energy delivered to Large Load Customers and to maintain the City's electric utility in a financially sound position. This rate applies to all Large Load customers regardless of their actual monthly usage. Large Load Customers are defined as customers whose planned or actual single point of delivery meets or exceeds 20MW.

NET MONTHLY RATE

(1) **Energy Cost Adjustment for Large Load Charge** **$0.0515 per kWh**

ENERGY COST ADJUSTMENT BALANCING ACCOUNT CALCULATION

The ECA Balancing Account shall be calculated using the following formula:

ECA Balancing Account = (Beginning ECA LL Account Balance) – (Projected Net Energy Cost for Large Load)

Where:

Projected Net Energy Cost = For the next fiscal quarter, the electric utility's projected cost of electric load purchases from ERCOT to feed Large Loads plus all projected Large Load related electric utility power/energy related costs for that same period including, but not limited to, purchased power; applicable transmission services, losses and congestion; other ERCOT charges; renewable energy credits; and financial and/or physical power/energy trades (including natural gas); less all projected revenue to be received by the electric utility for Large Load related power/energy related sales and/or trades; plus applicable Franchise Fees and required ROI.

ENERGY COST ADJUSTMENT CALCULATION
ECA LL = [(Projected Large Load Net Energy Cost) + (ECA LL Balancing Account)] / (Projected Large Load kWh sales)

ENERGY COST ADJUSTMENT CHARGE

The Energy Cost Adjustment Large Load Charge shall be based on actual kWh consumption during the billing period. Energy Cost Adjustment Charge for Large Load = kWh × ECA LL Rate

The General Manager of the City's electric utility or their designee shall calculate the ECA LL Balancing Account monthly. In the event that the ECA LL Balancing Account calculated during the last month of each fiscal quarter (December, March, June, and September) is projected to be below $0 to $20,000,000 or more at the end of the next 4 quarters, the General Manager or their designee may recommend to the PUB and City Council a revision to the ECA LL to maintain the City's electric utility in a financially sound position. Any change to the ECA LL will be placed on the City Council's consent agenda.

SCHEDULE TCRF

TRANSMISSION COST RECOVERY FACTOR
(Effective 7/01/25)

The Transmission Cost Recovery Factor (TCRF) Rate shall be set to recover the costs of transmission service paid by DME to other transmission owners within the boundaries of the Electric Reliability Council of Texas ("ERCOT") region. The TCRF Rate shall be reviewed on a quarterly basis and adjusted as defined below. The TCRF Rate charges are pass-through charges to customers in order to maintain the City's electric utility in a financially sound position.

NET MONTHLY RATE	$0.0176 Per kWh
Residential	
General Service Small	
Local Government Service Small	
Temporary Service	
Athletic Field	
Traffic Lighting	
Unmetered Traffic Lighting	
Unmetered School Zone/Crossing	
Unmetered Security Camera	
Unmetered Wi-Fi Devices	

NET MONTHLY RATE	$5.02 Per kW
General Service Medium	
Local Government Service Medium	

NET MONTHLY RATE	$6.95 Per kVA
General Service Large	
Local Government Service Large	
General Service Time Of Use	

TRANSMISSION COST RECOVERY FACTOR BALANCING ACCOUNT CALCULATION
The TCRF shall be calculated using the following formula:

> TCRF Annual Billing = (Actual monthly net TCOS billing amounts charged by ERCOT transmission service providers to the City) + (Projected increases or decreases pursuant to PUCT-approved TCOS billing amount charges to ERCOT utilities) + (applicable Franchise Fees and required ROI)

During the last month of each fiscal year quarter (December, March, June, and September), the General Manager of the City's electric utility or their designee shall calculate the TCRF Balancing Account. The TCRF charge will be developed by the City for each applicable customer billing schedule herein, based on projected kWh sales for billing schedules without a demand component and on monthly peak kW or kVA for billing schedules with a demand component. The cumulative forecasted TCRF revenues from all rate classes shall fully recover the TCRF Annual Billing. The General Manager or their designee may recommend to the PUB and City Council a revision to the

TCRF to maintain the City's electric utility in a financially sound position. Any change to the TCRF will be placed on the City Council's consent agenda.

TCRF rate class allocation amount = [(TCRF annual billing) x (Projected rate class kWh usage)] / (Total projected usage for all rate classes).

SCHEDULE DGR

DISTRIBUTED GENERATION FROM RENEWABLE SOURCES RIDER
(Effective 07/01/25)

APPLICATION

This Rider is available to retail Customers receiving electric service under a City electric rate schedule who owns and operates an on-site generating system powered by a renewable resource capable of producing power, and which is interconnected with the City's electric system. Systems greater than 20 kW may be required to enter into a Purchase Power Agreement (PPA) applicable to their specific situation in lieu of this rate schedule. Renewable energy technology is any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly or indirectly from the sun or wind. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

This Rider applies to a Customer-owned generating system that primarily offsets all or part of the Customer's electric service provided by the City. If the Customer-owned generating system is sized such that it produces energy in excess of a Customer's electric consumption, special arrangements and a contract may be necessary. The current interconnection guidelines may be found in the Distributed Generation Manual located at www.cityofdenton.com.

In light of additional costs associated with the Distributed Generation From Renewable Sources Rider and to mitigate potential risk to ratepayers, any participant in the Distributed Generation From Renewable Sources Rider must be, at the time this Rider is applied for and continuing while such Rider is in effect, a Customer in good standing of all City utilities, including solid waste services. Unless legal review procedures have been invoked in good faith regarding the obligation, a Customer in good standing for the purpose of this Rider is defined as a Customer not owing any unpaid utility or solid waste debt obligation that is over forty-five (45) days past due to the City during the previous twelve (12) months.

CONDITIONS OF SERVICE

All charges, character of service, and terms and conditions of the electric rate schedule under which the Customer receives service shall apply except as expressly altered by this Rider. This Rider is subject to change at any time.

The Customer shall comply with the City's current technical requirements for distributed generation interconnection. The Customer shall obtain approval from the City prior to the installation of the on-site generating system. The Customer shall submit to the City a completed interconnection application form and signed Agreement for Interconnection and Parallel Operation of Distributed Generation before the system installation. The minimum term of an agreement under this Rider is one year, extended automatically unless terminated by either party with sixty (60) days advance written notice.

The Customer is responsible for the costs of interconnecting with the City's electric system, including transformers, service lines, or other equipment determined necessary by the City for safe installation and operation of the Customer's equipment with the City's electric system. The

Customer is responsible for any costs associated with required inspections and permits.

METERING

Metering under this Rider shall be performed by a single meter capable of registering the flow of electricity in two directions (delivered by the City's electric system to the Customer and delivered to the City's electric system by the Customer's system) to determine the Customer's generation delivered to the City.

The Value of Solar (VOS) Rate

Applicable to any customer receiving City electric service that owns an on-site distributed generation (DG) system powered by solar which is interconnected with the City's electric system and does not otherwise have a purchase power agreement with the City.

MONTHLY RATE

(1) **Value of Solar Rate** **$0.0500 per kWh**

VALUE OF SOLAR CALCULATION

VOS Credit = (all kWh delivered from customer DG to DME) * (VOS Rate)

The Value of Solar credit will be applied monthly based on all kWh delivered from Customer to City's electric system during the billing period regardless of customer usage during that month.

Beginning in the billing period after a Customer receives approval from the City, to interconnect the Customer's on-site generating system; all energy generated by the Customer's system and delivered to the City's electric system will be considered renewable energy. The Customer shall be billed for all energy delivered by the City to the Customer under the approved rates.

Any Billing Period Credit shall be applied to the utility charges due from the Customer to the City for the billing period.

INDEMNIFICATION

The Customer operating the renewable distributed generation system indemnifies the City and holds the City harmless for all damages and injuries to the City, the Customer, or others arising out of Customer's use, ownership or operation of Customer's distributed generation facilities in parallel with the City's system. Customer is solely responsible for providing adequate protection for operating in parallel with the City's system in such a manner that faults or other disturbances on the City's system do not cause damage to the Customer's distributed generation equipment.

SCHEDULE SFR

SPECIAL FACILITIES RIDER
(Effective 07/01/25)

(1) All service shall be offered from available facilities. If a Customer's service characteristics require facilities and devices not normally and readily available at the location where the Customer requests service, the total cost incurred by the City for all facilities installed, buried, relocated and/or removed shall be the responsibility of the Customer and subject to a contract entered between the City and the Customer. This contract shall be signed by both parties prior to the City providing service to the Customer.

(2) Any contract under this rider is subject to the following approvals:

(a) If the total value of the contract is less than $100,000, the contract may be approved by the City Manager, or their designee. If a contract under this subsection is not approved by the City Manager, or their designee, then it must be recommended for approval by the Public Utilities Board and approved by the City Council.

(b) If the total value of the contract is equal to or greater than $100,000, the contract must be recommended for approval by the Public Utilities Board and approved by the City Council.

SCHEDULE PAF

POLE ATTACHMENT FEE
(Effective 07/01/25)

APPLICATION

This Rate is available to a licensee ("Licensee" or "licensee") who desires to access designated poles or conduits owned by the City for the purpose of installing and maintaining their facilities and associated equipment to provide services to the public. An agreement between such entity and the City or its contractor shall be executed on a separate form, but will reference, the following rate schedule:

$$\text{Rate} = \text{Space Factor} \times \text{Cost}$$

$$\text{Space Factor} = \frac{[(\text{Space Occupied}) + (2/3 \times (\text{Unusable Space} \div \text{No. of Attaching Entities}))]}{(\text{Pole Height})}$$

Cost:

in Service Areas where the number of Attaching Entities is 5 = 0.66 x (Net Cost of Bare Pole) x Carrying Charge Rate

in Service Areas where the number of Attaching Entities is 4 = 0.56 x (Net Cost of Bare Pole) x Carrying Charge Rate

in Service Areas where the number of Attaching Entities is 3 = 0.44 x (Net Cost of Bare Pole) x Carrying Charge Rate

in Service Areas where the number of Attaching Entities is 2 = 0.31 x (Net Cost of Bare Pole) x Carrying Charge Rate

NET ANNUAL RATE

(1) Annual Pole Attachment ("APA") Distribution

$/attachment/year	**2 Attachers**	**3 Attachers**	**4 Attachers**	**5 Attachers**
	$19.86	$19.78	$19.83	$19.59

plus;

(2) APA Transmission

$/attachment/year	**2 Attachers**	**3 Attachers**	**4 Attachers**	**5 Attachers**
	$410.93	$403.94	$399.99	$390.72

Note: Annual Rates (2) and (3) listed above are not available on all poles nor in all areas across the City.

MISCELLANEOUS

(1)	Unauthorized Attachment Penalty	$1,000 per attachment per pole
(2)	Undefined Work or Expense	Rate pursuant to Schedule SFR

APPLICATION AND MAKE READY COSTS

Licensees will be required to pay for any work done or contracted by the City, including but not limited to any application fees, analysis, make ready work and any installed, used or maintained facilities in violation of the Agreement that the licensee has not corrected. The City or its Contractor will invoice licensee, and licensee must pay, for identified expenses as needed before any work will begin and shall include all reasonable fully loaded material (including any applicable overhead), labor, engineering, transportation and administrative costs. These fees will be as set forth in the contract agreement with the third-party contractor who provides such services, if applicable.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE BIF

BANNER INSTALL FEE
(Effective 07/01/25)

APPLICATION

Applicable to any person who has completed an application and received approval from the City to have a banner installed on facilities owned by the City for the purpose of marketing and publicizing community events shall be assessed a fee based on the following schedule:

NET ANNUAL RATE

Over the Street Banner Install	$100.00 per banner
Pole One Time Banner Install	$15.00 per banner
Pole Seasonal Banner Install	$27.00 per banner

TERMS AND CONDITIONS OF SERVICE

Persons requesting the City install an Over the Street Banner must provide the City with a banner that is no more than three (3) feet tall by thirty-five (35) feet in length with six (6) feet of rope. All Over the Street Banners must be made out of mesh only (fish net type material). A sample of the banner material is recommended for approval. The City's Building Inspections Department requires an application and permit fee of sixty (60) dollars for installation of an Over the Street Banner which needs to be completed prior to contacting the City's electric utility.

Persons requesting the City install a Pole Banner must provide the City's electric utility with a banner that is no more than thirty (30) inches tall by eighty (80) inches in length with openings of two (2) inches. Pole Banners are required to be made of weather beater or vinyl material only. The appropriate application for each type of banner must be completed prior to installation and returned to a representative of the City's Electric Operations and Maintenance Division along with applicable fees listed above, a digital image of the banner, and location requests. The City's electric utility will determine install locations depending on availability. Any banners that promote sponsors or advertisement are strictly prohibited.

PAYMENT

Payment is required to the City at the time the banners are given for installation. Permit fees, when applicable, are due to Building Inspections in order to reserve specific dates.

SCHEDULE WNA

WIRELESS NODE ATTACHMENTS
(Effective 07/01/25)

APPLICATION

This Rate is available to a licensee who desires to install and maintain their wireless nodes and associated equipment to provide services to the public. An agreement between such entity and the City shall be executed separate from, but will reference, the following rate schedule:

NET ANNUAL RATE

	(1)	Facility Charge	$18.09 per node
plus;			
	(2)	Usage Charge	$0.0674 per kWh
plus;			
	(3)	Energy Cost Adjustment Charge	See Schedule ECA
plus;			
	(4)	Transmission Cost Recovery Factor	See Schedule TCRF

METERED USAGE CHARGE

Billing for the Metered Usage Charge shall be based on actual kWh consumption for each device once every twelve (12) months at the end of the fiscal year.

Usage Charge = All kWh per device × Rate per kWh

UNMETERED USAGE CHARGE

Billing for the Unmetered Usage Charge shall be based on 1) kWh consumption from similarly installed metered equipment; or 2) technical information of installed equipment provided by licensee, if similar equipment is not already metered. This calculated consumption will be billed for each device once every twelve (12) months at the end of the fiscal year.

Usage Charge = Annual kWh per device × Rate per kWh

Annual Usage = 2,000 kWh per device per account (or calculated consumption based on technical information provided by licensee)

MISCELLANEOUS

(1)		Unauthorized Attachment Penalty	$1,000 per attachment
(2)		Undefined Work or Expense	Rate pursuant to Schedule SFR

MAKE READY COSTS

Licensees will be required to pay for any work done or contracted by the City, including but not limited to make ready work and any installed, used or maintained facilities in violation of the Agreement that the licensee has not corrected. The City will invoice licensee, and licensee must pay, for identified expenses as needed before any work will begin and shall include all reasonable fully loaded material (including any applicable overhead), labor, engineering, transportation and administrative costs.

PAYMENT

Bills are due when rendered and become past due if not paid within fifteen (15) calendar days from date of issuance.

SCHEDULE EVCR

ELECTRIC VEHICLE CHARGING RATE
(Effective 07/01/25)

APPLICATION

Applicable to vehicles that utilize charging services from City of Denton owned and operated Level 2 EV chargers.

NET ANNUAL RATE

(1)	Usage Charge	$0.0406 per minute

USAGE CHARGE

Billing for the Usage Charge shall be based on actual charging time incurred. The billing service will be provided by a third-party vendor

Usage Charge = EV Charging duration × Rate per Minute

SCHEDULE WTS

WHOLESALE TRANSMISSION SERVICE
(Effective 07/01/2024)

AVAILABILITY

To Eligible Transmission Service Customers for Wholesale Transmission Service through the Denton Municipal Electric Utility transmission system, at all points where transmission facilities of adequate capacity and suitable voltage are available to provide service, in accordance with Public Utility Commission of Texas (PUC or Commission) 16 Texas Administrative Code (TAC) §§ 25.191-.203.

APPLICABILITY

Applicable only to wholesale transactions involving the wholesale purchase of electric power and energy. This tariff for Wholesale Transmission Service is applicable to Transmission Service using any transmission facilities owned by the Denton Municipal Electric Utility in accordance with 16 TAC §§ 25.191-.203.

TYPE OF SERVICE

Three phase, 60 hertz alternating current, delivered onto, or received from Denton Municipal Electric Utility's transmission system at 60,000 volts or greater and on transmission facilities that have been prepared and made available for this service.

TRANSMISSION SERVICE REQUIREMENTS

As a condition to obtaining Wholesale Transmission Service, the Transmission Service Customer shall execute an Interconnection Agreement with each Transmission Provider, in accordance with 16 TAC § 25.198, and the Transmission Service Customer shall meet all Electric Reliability Council of Texas (ERCOT) requirements as specified in the ERCOT Protocols and Operating Guides.

CONDITIONS PRECEDENT FOR RECEIVING SERVICE

Subject to the terms and conditions hereof and of 16 TAC § 25.198, the Denton Municipal Electric Utility will provide wholesale Transmission Service to any Eligible Transmission Service Customer, provided that:
(A) the eligible Transmission Service Customer has completed an Application for Transmission Service, as provided under 16 TAC § 25.198;
(B) the eligible Transmission Service Customer and Denton Municipal Electric Utility, or a third party, have completed installation of all equipment specified under the Interconnection Agreement, consistent with NERC and ERCOT guidelines as set forth in 16 TAC § 25.198;

€ the eligible Transmission Service Customer has executed an Interconnection Agreement for service under this tariff or, if necessary, requested in writing that Denton Municipal Electric Utility file a proposed unexecuted agreement with the Commission;
(D) the eligible Transmission Service Customer has arranged for Ancillary Services necessary for the transactio€(E) each wholesale load for which Transmission Service is requested maintains a power factor of 95% or greater at each point of interconnection;
(F) the Transmission Service Customer has constructed, maintains and operates the facilities on its side of each point of interconnection that are necessary to reliably interconnect and deliver power from a resource to Denton Municipal Electric Utility's transmission system and from Denton Municipal Electric Utility's transmission system to the Transmission Service Customer's loads;
(G) to the extent the Transmission Service requires the addition of facilities or upgrades to the transmission system, such facilities have been placed in service.

APPLICATION PROCEDURES

The Denton Municipal Electric Utility and the Transmission Service Customer shall comply with the application procedures for Transmission Services set forth in 16 TAC § 25.198, which shall govern such procedures.

CONSTRUCTION OF NEW FACILITIES

Construction of new facilities needed to accommodate a request for Planned Transmission Service shall be in accordance with the procedures set forth in 16 TAC § 25.198. Upon receipt of a request for Transmission Service, the Denton Municipal Electric Utility shall, if necessary, perform a System Security Study in accordance with 16 TAC § 25.198. Based on the results of the System Security Study, the Denton Municipal Electric Utility also may perform a Facilities Study, in accordance with 16 TAC § 25.198. An executed Facilities Study agreement with the Transmission Service Customer is required prior to the Denton Municipal Electric Utility performing a Facilities Study. In the event that existing facilities are inadequate to support the requested Transmission Service, Denton Municipal Electric Utility may require the Transmission Service Customer to provide a contribution in aid of construction attributable to directly assigned facilities.

LOAD SHEDDING AND CURTAILMENT

Transmission Service hereunder shall be subject to, and the Denton Municipal Electric Utility and the Transmission Service Customer will comply with, the load shedding and curtailment procedures established under 16 TAC § 25.200. Any interruption shall be based on operational factors and shall not accord a higher priority to the Denton Municipal Electric Utility's retail and wholesale customers than to its customers taking Transmission Service. Service to all customers shall be restored as quickly as possible.

PRICING FOR TRANSMISSION SERVICE WITHIN ERCOT

Charges for Transmission Service hereunder shall be in accordance with Texas Utilities Code § 35.004(d). For Transmission Service a Transmission Service Customer shall incur both an access charge, as set forth below, and loss compensation charges.

Annual Postage Stamp Charge (access charge) $0.333063 per kW of coincident peak demand determined in accordance with 16 TAC §25.192.

Monthly Postage Stamp Charge (access charge) $0.027755 per kW of coincident peak demand determined in accordance with 16 TAC §25.192.

Charges for each calendar year shall be adjusted pursuant to the schedule in the PUC's Order approving the transmission charges for that year.

PRICING FOR TRANSMISSION SERVICE FOR EXPORTS FROM ERCOT

Charges for Transmission Service for exports from ERCOT shall be in accordance with Texas Utilities Code § 35.004(d) and 16 TAC § 25.192. Transmission Service Customers exporting power from ERCOT will be assessed transmission service charges based on the amount of power actually exported and the duration of the transaction. Charges for Transmission Service for exports from ERCOT shall be determined in accordance with 16 TAC § 25.192(e) and shall be calculated using the charges set forth below:

Service Type	**Access Rate per kW of peak demand**
Hourly Rate	**$0.000038**

LOSSES

Losses shall be calculated by the Independent System Operator (ISO) in accordance with the method approved by the 16 TAC § 25.192.

RESALE OF TRANSMISSION RIGHTS

With advance written notice to the Denton Municipal Electric Utility and subject to a reasonable credit review, a Transmission Service Customer may resell any and all Transmission Service rights contracted for by the Transmission Service Customer to other wholesale market participants pursuant to 16 TAC § 25.191. The
Transmission Service Customer shall inform the Denton Municipal Electric Utility and obtain ISO approval for any resale of Transmission Service rights.

RELIABILITY GUIDELINES

To maintain reliability of the ERCOT transmission grid, Denton Municipal Electric Utility shall operate its transmission system in accordance with ERCOT Protocols, ERCOT Operating

Guides, NERC guidelines, and any other guidelines of the ISO that may apply to Denton Municipal Electric Utility' transmission system.

The Denton Municipal Electric Utility reserves the right, consistent with good utility practice and on a non-discriminatory basis, to interrupt Transmission Service without liability on the Denton Municipal Electric Utility's part for the purpose of making necessary adjustments to, changes in, or repairs to its lines, substations and other facilities, or where the continuance of Transmission Service would endanger persons or property. In the event of any adverse condition or disturbance on Denton Municipal Electric Utility's system or any other system directly or indirectly interconnected with Denton Municipal Electric Utility's system, Denton Municipal Electric Utility, consistent with Good Utility Practice, also may interrupt Transmission Service on a non-discriminatory basis in order to limit the extent or damage of the adverse condition or disturbance, to prevent damage to generating or transmission facilities, or to expedite restoration of service. The Denton Municipal Electric Utility will give the Transmission Service Customer as much advance notice as is practicable in the event of such interruption and shall restore service with due diligence.

The Transmission Service Customer's failure to respond to established emergency load shedding and curtailment procedures to relieve emergencies on Denton Municipal Electric Utility' transmission system may result in the Transmission Service Customer being deemed by Denton Municipal Electric Utility to be in default and may result in the termination of Transmission Service.

PAYMENT

Any charges due to Denton Municipal Electric Utility under this rate schedule shall be billed in accordance with 16 TAC § 25.202. Customers shall make payment to Denton Municipal Electric Utility in a manner consistent with the procedures and deadlines set forth in 16 TAC § 25.202. Any late payments by customers or customer defaults shall be handled in accordance with 16 TAC § 25.202.

CONTRACT TERM

Planned Transmission Service is available for annual service, monthly service in multiples of one-month, weekly service, and daily service. Unplanned Transmission Service is available for periods of not less than one hour or more than 30 days.

AGREEMENT

An agreement for Transmission Service containing terms and provisions consistent with 16 TAC §§ 25.191-.203 is required prior to commencement of such service. Such agreement will require approval of the City Council of Denton.

DEFINITIONS

Capitalized terms shall have the meanings set forth in 16 TAC §§ 25.5 and 25.191 .203.

AMENDMENTS TO RULES

In the event 16 TAC §§ 25.191-.203 are amended or if a new rule is adopted governing the subject matter of this tariff, this tariff shall, nevertheless, remain effective until the new tariff(s) filed pursuant to any such amendment(s) or such new rules are approved, unless the amendment(s) or new rules or an agreement of the parties provide otherwise.

PUBLIC UTILITIES COMMISSION OF TEXAS TARIFF

This Schedule WTS is subject to change. The most up to date WTS tariff rate is filed with the Public Utilities Commission of Texas

SECTION 2. The City Manager is hereby authorized to expend funds to authorize credits to Customers on their electric service bills and further to authorize cash incentives in accordance with the form and type set forth in Schedule GIP, as the installation of energy efficient upgrades is in the best interest of the City, as such will reduce energy demand and consumption, reduce the peak load of the City's electric system, reduce emissions in the state, and promote energy conservation, which are all public purposes of the City.

SECTION 3. All ordinances or parts of ordinances in force when the provisions of this ordinance became effective which are inconsistent, or in conflict with the terms or provisions contained in this ordinance are hereby repealed to the extent of any such conflict.

SECTION 4. If any section, subsection, paragraph, sentence, clause, phrase or word in this ordinance, or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council of the City of Denton, Texas, hereby declares it would have enacted such remaining portions despite any such invalidity.

SECTION 5. The rates herein adopted shall become effective, charged, and applied to all electric services rendered by the City, and all energy usage by Customers of the City effective with the first billing issued on and after July 1, 2025; and a copy of said rates shall be maintained on file in the Office of the City Secretary of the City of Denton, Texas.

SECTION 6. This ordinance shall be effective immediately upon its passage and approval.

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Susan Keller Digitally signed by Susan Keller Date: 2025.06.02 16:26:35 -05'00'

Quarterly Energy Cost Adjustment (ECA) and Transmission Cost Recovery Factor (TCRF)



PUB:25-054 June 09, 2025

Current Policies and Rates

- Energy Cost Adjustment
  - Provides a buffer +/- $10,000,000 ECA Account balance
  - $0.0462/kWh
- Transmission Cost Recovery Factor (No Changes Recommended)
  - $0.0176/kWh
  - $5.02/kW
  - $6.95/kVA

PUB:25-054 June 09, 2025

ECA Adjustments

- Purchase Power costs vary substantially throughout the year
- One year of ECA monthly reviews and looking out 24 months, provides better insight into a more appropriate buffer amount
- More appropriate buffer would be +/- $20,000,000 based on 60 days of Average Purchase Power Expense
- Maintain current ECA rate of $0.0462/kWh

PUB:25-054 June 09, 2025

New ECA Schedule (Large Load)

- Energy Cost Adjustment
  - Purchase Power costs and volumes vary substantially between Purchase Power for the system and Purchase Power for Large Loads such as Core
  - Recommend creating an ECA unique to Large Loads
  - Large Loads will be defined as those loads who have a single metering point of 20 MW or greater
  - ECA LL will have the same review cycle as the system ECA of monitoring monthly and adjusting quarterly when necessary.
  - The buffer will be set at $0 to $20,000,000
  - The forecast period will be 12 months with a 24-month outlook
  - Initial ECA LL will be set to $0.0515/kWh

PUB:25-054 June 09, 2025

ECA and TCRF Forecasted Account Balances

ECA Account Balance Forecast		
Month	Year	Maintain Rate
		$ 0.0462
Jun	2025	$ 17,092,147
Jul	2025	$ 16,520,346
Aug	2025	$ 11,292,468
Sep	2025	$ 9,463,218
Oct	2025	$ 9,935,213
Nov	2025	$ 10,370,110
Dec	2025	$ 10,621,261
Jan	2026	$ 9,649,737
Feb	2026	$ 10,048,407
Mar	2026	$ 11,016,933
Apr	2026	$ 12,208,074
May	2026	$ 13,723,120

TCRF Account Balance Forecast		
Month	Year	Maintain Rate
		$ 0.0176
Jun	2025	$ (922,987)
Jul	2025	$ 578,118
Aug	2025	$ 2,207,078
Sep	2025	$ 1,418,063
Oct	2025	$ 4,295,332
Nov	2025	$ 4,282,412
Dec	2025	$ 4,277,543
Jan	2026	$ 4,514,389
Feb	2026	$ 4,727,694
Mar	2026	$ 4,685,817
Apr	2026	$ 4,576,009
May	2026	$ 4,605,191

Recommendation

DME General Manager and Finance Department recommendation (Effective July 1, 2025)

- ECA
  - Maintain current ECA at $0.0462
  - Amending the ordinance to +/- $20,000,000
- TCRF
  - No requested changes for next quarter
- ECA for Large Loads
  - Create new Schedule ECA LL
  - Reviewed monthly adjusted quarterly when necessary
  - $0 - $20,000,000
  - Initial rate set at $0.0515/kWh

Questions?



File #: PUB25-078, **Version:** 1

AGENDA CAPTION

Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

Receive information from staff regarding the energy cost adjustment schedule of rates for large load commercial customers that include public power utility competitive data; discuss, deliberate, and provide direction to staff regarding same.