

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH XYLEM WATER SOLUTIONS U.S.A., INC., FOR THE RAY ROBERTS WATER TREATMENT PLANT – OZONE GENERATOR PROGRAMMABLE LOGIC CONTROLLER UPGRADES FOR WATER PRODUCTION, WHICH IS THE SOLE PROVIDER OF THIS EQUIPMENT, 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 8841 – AWARDED TO XYLEM WATER SOLUTIONS U.S.A., INC., IN THE NOT-TO-EXCEED AMOUNT OF \$900,000.00).

WHEREAS, Section 252.022 of the Local Government Code provides that procurement of items that are only available from one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids; and

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

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the “File” listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8841	Xylem Water Solutions U.S.A., Inc.	\$900,000.00

SECTION 2. The City Council hereby finds that this bid, and the award thereof, constitutes a procurement of items that are available from only one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library

that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids.

SECTION 3. The acceptance and approval of the above items shall not constitute a contract between the City and the person submitting the quotation for such items until such person shall comply with all requirements specified by the Purchasing Department.

SECTION 4. The City Manager, or their designee, is hereby authorized to execute the contract relating to the items specified in Section 1, attached hereto, and the expenditure of funds pursuant to said contract is hereby authorized.

SECTION 5. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

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

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

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

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

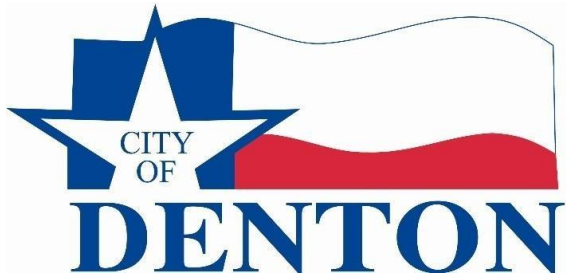
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn



Docusign City Council Transmittal Coversheet

FILE	8841
File Name	Ray Roberts Ozone Gen PLC Upgrades
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND XYLEM WATER SOLUTIONS U.S.A., INC.
(Contract #8841)**

THIS CONTRACT is made and entered into this date _____, by and between Xylem Water Solutions U.S.A., Inc. a Delaware corporation, whose address 4828 Parkway Plaza Blvd, Suite 200 Charlotte, NC 28217, 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 Contract # 8841 Ray Roberts Ozone Gen PLC Upgrades, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton Standard Terms and Conditions (**Exhibit “B”**);
- (c) Certificate of Interested Parties Electronic Filing (**Exhibit “C”**);
- (d) Insurance Requirements (**Exhibit “D”**);
- (e) Contractor’s Proposal (“Contractor’s Offer”) (**Exhibit “E”**);
- (f) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “F”**)

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as “Contract Documents.” Regarding technical scope of supply, Contractor’s Proposal shall govern in the event of a conflict among documents notwithstanding anything to the contrary stated herein or elsewhere, unless explicitly agreed upon in writing under an individual Purchase Order

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

Contract 8841

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

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

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

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

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

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

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2275, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

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

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

CONTRACTOR

Signed by:
BY: 
666F12A1500A463
AUTHORIZED SIGNATURE

Printed Name: Adam McNeill

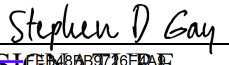
Title: VP Treatment North America

262 409 6712
PHONE NUMBER

Adam.McNeill@xylem.com
EMAIL ADDRESS

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

Signed by:
 Stephen D Gay
SIGNATURE PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

CITY OF DENTON, TEXAS
SARA HENSLEY CITY MANAGER

BY: _____

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
BY: 
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Exhibit A

Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$900,000. Pricing shall be per Exhibit E attached

2. 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.

3. 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:

- Commencement of work beyond contracted lead times
- Leadtime - 16 weeks from Contractor's receipt of fully executed contract.

The Contractor shall be assessed a Liquidated Damage equal to one (1%) percent fee of the PO price pro-rated during each month of delay when the schedule outlined above is not met, not to exceed 10% of the contract price. Upon failure to meet the above schedule, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin. If more than one party is responsible for assessment of liquidated damages against the City, then the Contractor shall be liable for only its portion of the total liquidated damages. Should Contractor's performance be late and the delay does not affect the City's overall critical path schedule, no liquidated damages shall be assessed. Liquidated damages are Seller's sole liability and Purchasers exclusive remedy for late delivery.

City and Contractor waive against each other, and against the other's officers, directors, members, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive, and consequential damages, loss of use, loss of profits and revenue, and loss of reputation arising out of, resulting from, or related to the Contract. The parties also agree that the total liability of Contractor to City for all claims, costs, losses, and damages arising from this Purchase Order will be limited to the Purchase Order value ("Cap"). **This Cap does not apply to or limit any claim by City for the following:** (a) costs, losses, or damages asserted by third parties for destruction of tangible property; (b) bodily injury, sickness, disease, or death or (c) gross negligence or willful misconduct.

Exhibit B
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, and other mutually agreed requirements attached and incorporated in the City of Denton's contract attached 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, notwithstanding the foregoing, Seller retains all contractual rights and remedies available under this Agreement until payment is received in full, including the right to pursue collection and enforce any applicable terms related to non-payment.

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 as evidenced by signed delivery ticket..

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 have the right to substitute a conforming tender. Following notice from City, the Contractor will notify the City of the intention to cure and may then make a conforming tender. Contractor shall, at its own expense, promptly take all commercially reasonable steps to cure such non-conformity as quickly as practicable. If, instead of requiring immediate correction or removal and replacement of non-conforming deliverables, the City prefers to accept it, the City may do so and at the City's own risk. In the absence of acceptance and provided Contractor fails within 5 days of receipt of written notice to initiate and demonstrate diligent efforts to fully remedy to City's reasonable satisfaction, then City may, subject to Contractor's receipt of written notice of such default terminate the agreement. 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, 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

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expected conditions.

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

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA") ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL

REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement bearing on Contractor's work shall govern. **THE CONTRACTOR SHALL DEFEND INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

12. INVOICES:

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

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

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

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

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid in accordance with payment terms in Exhibit E

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 resulting from acts or omissions of Contractor , 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 provided such damage is caused by Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in Section 4 of Exhibit E of the Contract, and that the unpaid balance would not be adequate to cover liquidated damages prescribed in section 3 of Exhibit A for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, all

required attachments, and supporting documentation; or

vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

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

G. INTENTIONALLY OMITTED.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

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

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

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have the right to examine all books, records, and computations pertaining to this Contract as needed to

verify invoiced amounts for time and materials or cost plus work. If necessary, for said work, the City shall have the right to escorted access at Contractor's office audit and make copies of the books, records, and computations pertaining to the Contract. The foregoing right to make copies is subject to the express written permission of Contractor at the time of the audit. 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. The parties agree that all such records may contain proprietary and confidential information. The City shall use the same degree of care to protect such Confidential Information as it uses to protect its own confidential and proprietary information of a similar nature, but in no event less than a commercially reasonable standard of care. Contractor 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. All material submitted by Contractor to the City of Denton shall become property of the City upon receipt. Any portions of such material claimed by 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*.

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, 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 an additional 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 the same 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: Per Exhibit E

22. WARRANTY – SERVICES: Per Exhibit E

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: If, instead of requiring immediate correction or removal and replacement of non-conforming deliverables, the City prefers to accept it, the City may do so at City's own risk. Upon failure of Contractor within 5 days of receipt of written notice to initiate and demonstrate diligent efforts to remedy any non-conforming work to the Contractor's reasonable satisfaction, it may terminate the order for cause pursuant to Article 27 . If any such acceptance occurs prior to final payment, the City may deduct such mutually agreed, equitable amounts as are necessary to compensate the City for the diminished value of the non-conforming deliverables. If the acceptance occurs after final payment, such mutually agreed 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 received, 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 remain liable for liquidated damages pursuant to section 3 of Exhibit A. when delayed as a result of the issuance of such Stop Work Notice due to Contractor's acts or omissions as described in this section 25.

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 material breach the Contractor shall not be relieved of liability to the City for direct damages sustained by the City by reason of said breach. The City may withhold an equitable amount from payments to the Contractor until amount of damages due the City from the Contractor can be determined by mutual agreement or as awarded by a court of competent jurisdiction. Notwithstanding the foregoing, Contractor reserves the right to claim that withholding is wrongful should it deem such amounts to be inequitable or unfounded.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor of any material provision of this agreement and following Contractor's failure within 5 days of receipt of notice

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to initiate and demonstrate diligent efforts to remedy the default, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days after the date of such notice, unless the Contractor, within such ten (10) day period, initiates and demonstrates diligent efforts to cure such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. the City shall be entitled to recover all reasonable, actual and verifiable costs, incurred by the City as a result of the Contractor's default. Upon said termination, 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. In the event this Agreement does not contain a specific remedy for a given breach, all rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. To the extent that this Order provides either party with a specified remedy for a given breach or default that remedy is the sole and exclusive remedy available to the exclusion of any / all other remedies that may be available at law, in equity or otherwise. 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. Notwithstanding anything stated herein or elsewhere to the contrary, as payment of liquidated Damages by Contractor are the remedy for delay, the City shall not terminate until the liquidated Damages cap has been met.

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 reasonable termination costs based upon the portion of work completed and services rendered up until the time termination notice is received, including payment, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, Contractor will not be entitled to any claim for anticipated profits on work not completed provided such payment amount is not disputed by City in good faith based on specific documented reasons related to non-performance, non-conformity or breach of contract. Any undisputed amounts shall be paid within the timeframes set forth in this Agreement.

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. Pricing is based upon commencement of work in accordance with the schedule stated in Exhibit E of this agreement or as mutually agreed in writing by the parties.

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

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the section 3 of Exhibit A of 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 reasonable approximation of value of the costs and in lieu of 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 are not binding upon Contractor unless mutually agreed in writing.

32. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall mean any and all third party claims, demands, suits, causes of action, judgments, and liability of every character, type, or description, including all reasonable costs and expenses of litigation, mediation, or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the tangible 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 mean 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 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 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 Contract

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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 AND AT ITS SOLE EXPENSE SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF.** If the use of any Product of any part thereof should be enjoined, Contractor shall have the right at its own expense to procure for the City the right to continue using such Product, or to replace said Product with a non-infringing item or to modify said Product so that it becomes non-infringing.

Irrespective of the foregoing, Contractor's indemnification obligations shall not apply to (i) compliance with designs, plans or specifications furnished by the Buyer, (ii) use of the goods in a manner for which they were never designed or contemplated by Contractor; (iii) Buyer's combination of Contractor's goods with something else unknown by Contractor wherein that combination infringes (contributory or inducing) or (iv) infringement of any patent in which the Buyer or any affiliate have any direct or indirect interest.

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: INTENTIONALLY OMITTED

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

42. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

44. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

45. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: The Contractor agrees to comply with the conflict of interest provisions of the City of Denton Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. NO SUBCONTRACTING BID AFTER AWARD: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. NO GIFT OF PUBLIC PROPERTY: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

48. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached Exhibit E of this agreement 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 except that the foregoing shall not apply to Subcontractors hired by Contractor to perform portions of onsite work as such is expected and agreed. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

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

50. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. DISPUTE RESOLUTION:

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

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

C. The parties shall not be required to submit to binding arbitration.

54. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit

to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

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

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

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

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

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

59. EQUAL OPPORTUNITY Contractor agrees that during the performance of its contract it

Contract 8841

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)INTENTIONALL OMITTED

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

62. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

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

64. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

65. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Contractor shall demonstrate on-site compliance with the provisions of federal law dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Contractor shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify

the City of Denton and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

66. ATTORNEY'S FEES; LEGAL COSTS: Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

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

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

69. FORCE MAJEURE: The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

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

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

72. RECORDS RETENTION: The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called Contract 8841

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. For work provided on a time and materials or cost plus basis, The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. PROCUREMENT LAWS: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit C
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

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

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

Exhibit D

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the 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**.
- .
- General 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 but only

to the extent that claims or liability arise directly out of the acts or omissions of the CONTRACTOR and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

B. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE

Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The 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 \$500,000.00 per occurrence.

NOTE:

- a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

D. PROFESSIONAL LIABILITY INSURANCE

If CONTRACTOR is a licensed or certified person who renders professional services, then **Professional Liability Insurance** to provide coverage against any claim which the CONTRACTOR becomes legally obligated to pay as damages arising out of the performance of professional services caused by any negligent error, omission or act with minimum limits of \$1,000,000.00 per claim, \$2,000,000.00 annual aggregate.

SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall include CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

EXHIBIT E



Denton – Lake Ray Roberts WTP Ozone System Controls Upgrade Proposal



Prepared for:

Mr. John Dillard

September 11, 2025



Xylem Water Solutions USA, Inc.
4828 Parkway Plaza Blvd, Suite 200
Charlotte, NC 28217

September 11, 2025

City of Denton ("Purchaser" or "City")
Lake Ray Roberts WTP
19401 Lake Ray Roberts Dam Road,
Aubrey, TX 76227

Project Name: Lake Ray Roberts WTP Ozone System Controls Upgrade
Account Number: 067511
Quote Number: J23081221685
Wedeco Original Equipment Project Number: 20645
Revision Number: 4

Dear Mr. Dillard,

We are pleased to submit the following proposal for the Lake Ray Roberts WTP Ozone System Controls Upgrade based on the information provided in your inquiry.

As Xylem ("Xylem" or "Supplier") is the OEM for the Ozone Disinfection System at your site, the City can be assured that all work performed will be of the highest quality, utilizing OEM parts coupled with OEM service procedures. In the following pages you will find a proposed scope of work for the Ozone System controls upgrade process.

We trust this information meets your expectations. Please do not hesitate to contact us if you have any questions.

We value your business and look forward to working with you.

Sincerely,

Mike Leverett
Aftermarket Territory Manager - Treatment
817-905-2879
mike.leverett@xylem.com



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1 Benefits of the Controls Upgrade

The controls upgrade will replace and upgrade significant control components with newer, more modern technology with Xylem staff expertise. This solution will address system concerns that are necessary for reliable operation, maintenance and efficiency. The controls improvement will be fairly direct in existing cabinets. The upgrade will ultimately provide longer system life and bring the system up to Xylem operating standards. This ozone system controls upgrade will afford the plant additional value beyond relief from existing system conditions.

2 Price & Scope of Supply

2.1 XYLEM SCOPE OF SUPPLY

- 2.1.1 Main Ozone Control Panel (MOCP) Upgrade (1):** The main ozone control panel will be upgraded with new Schneider Electric M580 redundant PLC hardware. Xylem provided labor will remove the legacy PLC racks, processors, power supplies and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric M580 hardware in this panel. All restoration work will be performed by factory trained Xylem personnel. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.
- 2.1.2 Pre-Ozone Contactor Control Panel Upgrade (RIOA) (1):** The pre-ozone contactor control panel will be upgraded with new Schneider Electric PLC hardware. Xylem provided labor will remove the legacy PLC rack, communication module, power supply and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric hardware in this panel. All restoration work will be performed by factory trained Xylem personnel. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.
- 2.1.3 Intermediate Contactor Control Panel Upgrade (RIOB) (1):** The intermediate contactor control panel will be upgraded with new Schneider Electric PLC hardware. Xylem provided labor will remove the legacy PLC rack, communication module, power supply and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric hardware in this panel. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction. Note: All existing I/O will be reused, some spares will be removed due to space constraints.
- 2.1.4 Ozone Generator Control Panel Upgrade (Gen-1 & Gen-2) (2)** The ozone generator control panels (2) will each be upgraded with new Schneider Electric M340 PLC hardware. Xylem provided labor will remove the legacy PLC racks, processors, power supplies and I/O modules located in each of these panels. Xylem will provide labor to install the new Schneider Electric M340 hardware in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.
- 2.1.5 Ozone Generator Power Monitor Upgrade (Gen-1 & Gen-2) (2):** The ozone generator panels (2) will each be upgraded with one (1) new power monitor. Xylem will provide labor

to install the new power monitors in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.

- 2.1.6 HMI Hardware Upgrade (3):** The main ozone control panel (1), and ozone generator control panel (2) will each be upgraded with one (1) new Schneider Electric Harmony GTO HMI. Xylem labor shall remove the legacy HMIs and install one (1) new Schneider Electric Harmony GTO HMI in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit the uninstalled HMIs to Owner at Owner's direction.
- 2.1.7 Ancillary Hardware Upgrade (1):** The main ozone control panel (1), pre-ozone contactor control panel (1), intermediate contactor control panel (1) and ozone generator panels (2) will each be upgraded with one (1) new managed Ethernet switch, (1) new UPS with internal batteries, (provisions for external batteries are not provided), four (4) new 24VDC power supplies, two (2) new 24VDC power supply redundancy modules and new Ethernet patch cords. Xylem will provide labor to install, configure and set up the new ancillary hardware in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction. Note: Ethernet switch configuration settings shall be provided to Xylem.
- 2.1.8 PLC Programming of New PLC Processor (4):** Factory trained Wedeco Controls Engineer shall be responsible for programming four (4) new PLC processors, two (2) in the main ozone control panel providing redundancy and one (1) in each of the ozone generator panels.
- 2.1.9 HMI Programming of New HMI Hardware (3):** Factory trained Wedeco Controls Engineer shall be responsible for programming three (3) new HMI's, one (1) each in the main ozone control panel and ozone generator panels.
- 2.1.10 Documentation (1):** The main ozone control panel (1), pre-ozone contactor control panel (1), intermediate contactor control panel (1) and ozone generator control panels (2) as-built drawings and supplement bill of material (BOM) will be provided for insertion into Owner's existing O&M manuals.
- 2.1.11 Field Services:** Xylem will provide the services of one (1) factory trained Controls Engineer for up to thirty-nine days (39), thirteen (13) trips, one (1) factory trained Ozone Technician for up to thirty-nine days (39), thirteen (13) trips and one electrician for up to fifteen (15) days, five (5) trips for initial site discovery visit, legacy hardware de-termination and removal, new hardware installation, wire re-termination, point to point testing, loop checks, start-up, commissioning, and operator training of one (1) PDO-6000 Ozone System.

2.2 PRICE SUMMARY

DESCRIPTION	PRICE
Ozone System Model PDO-6000 controls upgrade as defined in scope of supply	
TOTAL:	\$810,867

NOTES:

1. This firm pricing is based solely on scope outlined in section 2 of this proposal, and supersedes plans, specifications and addenda.
2. The prices quoted herein are based on the equipment being released for shipment by the 4th Quarter, 2025.
3. SCADA programming is not included.
4. Ethernet switch configuration settings shall be provided to Xylem.
5. Obtaining fresh backup copies of existing PLC and HMI programs while on site during the site discovery visit. Reference section 4, proposed schedule, week one.
6. The prices quoted herein are based on the proposed schedule in section 4 of this proposal and field work execution of weeks 3 through 14 being continuous sequential weeks.
7. Should an unsafe site condition or lack of site readiness delay the performance of work, Xylem holds the right to recover additional expenses incurred.
 - Ensure life safety systems including all ambient ozone monitors are in proper working condition.
 - The ozone system is free of ozone leaks.

EXCLUSIONS:

1. Equipment, spare parts, services and software not specifically listed in Section 2 of this proposal.
2. Conduits and field wireways not listed in Section 2 of this proposal.
3. Interconnecting Ethernet/fiber optic cable, cable installation and terminations between panels and Plant SCADA

3 Commercial Terms & Conditions

Incoterm: DAP - Delivered At Place **Named Placed:** Jobsite

Incoterms 2020 clarify responsibility for costs, risks, & tasks associated with the shipment of goods to the named place.

Validity: This Quote is valid for sixty (60) days.

The prices quoted herein are based on the current tariff rates, duties, government charges, and trade regulations as of the date of this quote. If any new tariffs, duties, taxes, or similar charges are imposed, or any existing tariffs, duties, or charges are increased or modified by any government or regulatory authority (collectively, "Tariff Changes"), and such Tariff Changes result in an increase in the cost of goods, Xylem reserves the right to adjust the pricing of the affected goods to reflect the increased costs. Xylem is not obligated to deliver the goods and/or services until an agreement on the new price has been reached.

Payment terms for Denton – Lake Ray Roberts WTP Ozone System Controls Upgrade project are as follows and shall govern over all other payment provisions stated in the agreement:

Price is based upon the following payment terms (net 30 days), subject to credit approval:

- a. 30% net 30 days upon receipt of purchase order
- b. 60% net 30 days from shipment of the product
- c. 10% net 30 days from ozone system controls upgrade site work completion

Please make purchase orders out to:

Xylem Water Solutions USA, Inc.
4828 Parkway Plaza Blvd., Suite 200
Charlotte NC 28217
704-409-9700
Fax 704-409-9839

Xylem's payment shall not be dependent upon Purchaser being paid by any third party unless Owner denies payment due to reasons solely attributable to items related to the equipment being provided by Xylem Inc.

General Equipment & Service / Workmanship Warranty: Xylem Standard Warranty terms below apply to the items in this quotation, notwithstanding anything to the contrary stated elsewhere.

Xylem Warranty for Goods

Except as provided above, for goods sold by Supplier to Buyer(s) that are used by Buyer for personal, family or household purposes, Supplier warrants the goods to Buyer on the terms of Seller's limited warranty available on Seller's website. For any other purpose, Supplier warrants that the goods sold to Buyer under the Agreement (with the exception of software, membranes, seals, gaskets, elastomer materials, coatings and other "wear parts" or consumables all of which are not warranted except as otherwise provided in the Proposal) will be (i) built in accordance with the specifications referred to in the Proposal, if such specifications are expressly made a part of the Agreement, and (ii) free from defects in material and workmanship for a period of one (1) year from the date of installation or eighteen (18) months from the date of shipment (which date of shipment will not be greater than thirty (30) days after receipt of notice that the goods are ready to ship), whichever occurs first, unless a longer period is specified in the product documentation (the "Warranty"). For



services, the warranty period will be three (3) months from the date the services are performed unless otherwise expressly set forth in the Proposal or sales form or order acknowledgment.

Supplier will, at its option, either repair or replace any goods which fails to conform with the Warranty; provided, however, that under either option, Supplier will not be obligated to remove the defective goods or install the replaced or repaired goods and Buyer will be responsible for all other costs, including service costs, shipping fees and expenses.

Buyer's failure to comply with Seller's repair or replacement advice will constitute a waiver of Buyer's rights and render all warranties void. Any parts repaired or replaced by Supplier under the Warranty are warranted only for the remaining balance of the warranty period. The Warranty is conditioned on Buyer giving written notice to Supplier of any defects in material or workmanship of warranted goods within ten (10) days, or shorter period as dictated by the issue, of the date when any defects are first manifest. Supplier will have no warranty obligations to Buyer with respect to any goods or parts of the goods that: (a) have been repaired by third parties other than Supplier or without Seller's written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to Seller's instructions for installation, operation and maintenance; (d) have been damaged from ordinary wear and tear, corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; (g) have been damaged resulting from the use of accessory equipment not sold by Supplier or not approved by Supplier in connection with goods supplied by Supplier hereunder; or (h) not sold by Supplier or its authorized supplier. In any case of goods not manufactured by Seller, there is no warranty from Seller; however, Supplier will extend to Buyer any warranty received from Seller's supplier of such goods.

Xylem Warranty for Services

For a period of ninety (90) days from the date of ozone system controls upgrade site work completion unless otherwise expressly set forth in the quotation or sales form or order acknowledgment, Supplier represents and warrants to Purchaser that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement ("Supplier Service Warranty").

Supplier shall not be liable for a breach of the Warranty set forth in the foregoing paragraph unless Purchaser gives written notice of the defective Services, reasonably described, to Supplier within thirty (30) days of the time when Purchaser discovers or reasonably should have discovered that the Services were defective and then, following receipt of such notice, Supplier shall, in its sole discretion, either: (i) repair or re-perform such Services; or (ii) credit or refund the price of such Services at the pro rata contract rate.

THE FOREGOING XYLEM WARRANTY STATEMENTS FOR GOODS AND SERVICES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE GOODS PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.



Schedule: Submittals will be provided for information only. Delivery lead times for service are subject to technician availability after order acceptance.

Terms of Delivery: PP/Add Actual Surcharge.

Back charges: Purchaser shall not make purchases nor shall Purchaser incur any labor that would result in a back charge to Supplier without prior written consent of an authorized employee of Seller.

Shortages: Supplier will not be responsible for any apparent shipment shortages or damages incurred in shipment that are not reported within two weeks from delivery to the jobsite. Damages should be noted on the receiving slip and the truck driver advised of the damages. Please contact our office as soon as possible to report damages or shortages so that replacement items can be shipped and the appropriate claims made.

Taxes: The prices quoted above do not include any state, federal, or local sales tax or use taxes. Any such taxes as applicable must be added to the quoted prices.

Customer Acceptance: A signed facsimile copy of this quote is acceptable as a binding contract.

Signature: _____ Name: _____
(PLEASE PRINT)

Email: _____ Phone: _____

Date: _____ PO#: _____

4 Proposed Schedule

Week	Equipment / Activity	Xylem			Plant		
		Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
1	Site discovery visit	N/A	System health check, get fresh backup copies of software programs	System health check, note deficiencies that need resolving prior to controls upgrade	N/A	N/A	N/A
2	Install new Network: MOCP, RIOA, RIOB, Gen 1, Gen 2	N/A	N/A	N/A	Install terminate & test Ethernet cabling between ozone control panels, MOCP, RIOA, RIOB, Gen 1, Gen 2	N/A	N/A
3	Ozone Generator No. 1 control panel	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Loop check local, prepare for Loop check with Plant Staff	Loop check local, prepare for Loop check with Plant Staff	N/A	N/A	N/A
4	Ozone Generator No. 1 control panel	N/A	Loop check with Plant Staff, document on loop check sheets	Loop check with Plant Staff, document on loop check sheets	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
5	Ozone Generator No. 2 control panel	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Legacy hardware removal, new hardware install, wire and loop check	Legacy hardware removal, new hardware install, wire and loop check	N/A	N/A	N/A
6	Ozone Generator No. 2 control panel	N/A	Legacy UPS and 24VDC power supply hardware removal, new hardware install, wire and function check	Legacy UPS and 24VDC power supply hardware removal, new hardware install, wire and function check	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A

Week	Equipment / Activity	Xylem			Plant		
		Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
7	Main Ozone Control Panel-MOCP & MOCP RIO (LOX & NB)	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Control system upgrade loop checks with plant SCADA	Control system upgrade loop checks with plant SCADA	N/A	N/A	N/A
8	Main Ozone Control Panel-MOCP & MOCP RIO (LOX & NB)	N/A	N/A	N/A	N/A	Loop check with Programmer and O3 tech, document on loop check sheets.	N/A
9	Pre-Ozone Contactor Panel-RIOA	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	N/A	N/A	N/A	N/A	N/A
10	Pre-Ozone Contactor Panel-RIOA	N/A	N/A	N/A	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
11	Intermediate Ozone Contactor Panel-RIOB.	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	N/A	N/A	N/A	N/A	N/A
12	Intermediate Ozone Contactor Panel-RIOB.	N/A	Loop check local, prepare for Loop check with Plant Staff	Loop check local, prepare for Loop check with Plant Staff	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
13	Main Ozone Control Panel-cutover from PLC-5	N/A	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	N/A	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	N/A

Week	Equipment / Activity	Xylem			Plant		
		Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
14	Training – Gen 1, Gen 2, RIOA, RIOB and MOCP	N/A	Train operators on controls upgrade new PLC hardware & HMI look and feel – operation is unchanged	Train operators on controls upgrade new PLC hardware & HMI look and feel – operation is unchanged	N/A	Sign off on training	N/A
15 and beyond	Xylem time on site will be provided on a T&M basis						

SCHEDULE NOTES:

1. Site discovery visit (week 1) will be scheduled as soon as possible after purchase order acceptance based on Controls Engineer and Ozone Technician availability.
2. The gap between order acceptance and week 3 is scheduled to be 37 weeks. Submittals 12 weeks, Receive materials 18 weeks, Bench test materials 6 weeks, Shipment of materials 1 week.
3. Field work execution (weeks 3 through 14) shall be continuous sequential weeks.

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.

Xylem Water Solutions U.S.A., 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

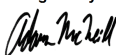
☒

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 Signed by:



10/20/2025

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

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

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 9127C4CE-7D02-4582-9D32-2F93D2C882C4

Subject: Please DocuSign: City Council Contract 8841 Ray Roberts Ozone Gen PLC Upgrades

Source Envelope:

Document Pages: 43

Certificate Pages: 6

AutoNav: Enabled

Envelopeld Stamping: Enabled

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

Status: Sent

Envelope Originator:

Gabby Leeper

901B Texas Street

Denton, TX 76209

Gabby.Leeper@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

10/13/2025 7:08:35 PM

Holder: Gabby Leeper

Gabby.Leeper@cityofdenton.com

Location: DocuSign

Signer Events

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

Lori Hewell

lori.hewell@cityofdenton.com

Purchasing Manager

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

marcella.lunn@cityofdenton.com

Senior Deputy City Attorney

City of Denton

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Adam McNeill

Adam.McNeill@xylem.com

Vice President Treatment

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Accepted: 10/15/2025 8:06:34 AM

ID: 1fbc547f-3a33-4be0-bd11-174051c42bd8

Signature

Completed

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Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.104

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Signed by:
Adam McNeill
5C6F1CA1E0CA4C2...

Signature Adoption: Uploaded Signature Image

Using IP Address: 165.1.176.151

Timestamp

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Signed: 10/13/2025 7:13:19 PM

Sent: 10/13/2025 7:13:23 PM

Viewed: 10/14/2025 8:58:25 AM

Signed: 10/14/2025 9:02:23 AM

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Viewed: 10/14/2025 4:45:51 PM

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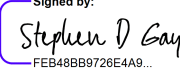
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Viewed: 10/20/2025 11:30:32 AM

Signed: 10/20/2025 11:31:30 AM

Signer Events	Signature	Timestamp
Stephen D Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None)	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/20/2025 11:31:34 AM Viewed: 10/21/2025 11:30:50 AM Signed: 10/21/2025 11:31:26 AM

Electronic Record and Signature Disclosure:
Accepted: 10/21/2025 11:30:50 AM
ID: acebc4e3-8290-4048-af73-5b4378bbe688

Cheyenne Defee
cheyenne.defee@cityofdenton.com
Procurement Administration Supervisor
City of Denton

Sent: 10/21/2025 11:31:33 AM

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Ingrid Rex
ingrid.rex@cityofdenton.com
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Cheyenne Defee
cheyenne.defee@cityofdenton.com
Procurement Administration Supervisor
City of Denton

COPIED

Sent: 10/13/2025 7:13:22 PM

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Gretna Jones
gretna.jones@cityofdenton.com
Legal Secretary
City of Denton

Sent: 10/21/2025 11:31:33 AM
Viewed: 10/21/2025 1:49:05 PM

Security Level: Email, Account Authentication (None)

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		
John Dillard john.dillard@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/21/2025 10:51:23 AM ID: b3f8aca1-e462-4f66-8e3c-9d9a86ba513c		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/13/2025 7:12:31 PM
Envelope Updated	Security Checked	10/14/2025 8:20:59 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

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

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

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

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

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

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

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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