



City of Denton

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

Meeting Agenda Public Utilities Board

Monday, May 5, 2025

9:00 AM

Council Work Session Room

REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD

Citizens will be able to participate in the following way:

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

After determining that a quorum is present, the Public Utilities Board of the City of Denton, Texas will convene in a Regular Meeting on Monday, May 5, 2025, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

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

2. CONSENT AGENDA

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

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

- A. [PUB25-063](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas

home-rule municipal corporation, authorizing the City Manager to execute a contract with Runi Recycling Machinery Inc., for the purchase and installation of a SK240 Styrofoam densifier for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8662 - awarded to Runi Recycling Machinery Inc., in the not-to-exceed amount of \$79,000.00).

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

- B. [PUB25-067](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a Professional Services Agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by the City Council on February 23, 2021, in the not-to-exceed amount of \$461,100.00; amended by Amendment 1 approved by City Council; said second amendment to acquire ultimate Right of Way for the Ryan Road Widening Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6590-097 - providing for an additional second amendment expenditure amount not-to-exceed \$614,500.00, with the total contract amount not-to-exceed \$2,313,865.15).

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

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [PUB25-066](#) Consider approval of the April 28, 2025, minutes.

Attachments: [4.28.2025 PUB Minutes](#)

- B. [PUB25-039](#) Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$46,535,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing an effective date.

Attachments: [Exhibit 1. Agenda Information Sheet.pdf](#)
 [Exhibit 2. Ordinance.pdf](#)
 [Exhibit 3. Presentation.pdf](#)

- C. [PUB25-040](#) Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$207,515,000 in principal amount of Certificates of Obligation of the City of Denton for Waterworks and Wastewater System and Electric System projects; and providing an effective date.

Attachments: [Exhibit 1. Agenda Information Sheet.pdf](#)
 [Exhibit 2. Ordinance.pdf](#)
 [Exhibit 3. Presentation.pdf](#)

- D. [PUB25-064](#) Management Reports
 1. PUB25-036 Inquiry Memo

2. Future Agenda Items
3. New Business Action Items

Attachments:

- [1. PUB25-036 Inquiry Memo](#)
- [2. Future Agenda Items](#)
- [3. New Business Action Items](#)

4. CONCLUDING ITEMS

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

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (<https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on May 1, 2025, in advance of the 72-hour posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

OFFICE OF THE CITY SECRETARY

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



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Legislation Text

File #: PUB25-063, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Runi Recycling Machinery Inc., for the purchase and installation of a SK240 Styrofoam densifier for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8662 - awarded to Runi Recycling Machinery Inc., in the not-to-exceed amount of \$79,000.00).



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AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: May 5, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Runi Recycling Machinery Inc., for the purchase and installation of a SK240 Styrofoam densifier for the Solid Waste and Recycling Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8662 – awarded to Runi Recycling Machinery Inc., in the not-to-exceed amount of \$79,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Promote Sustainability and the Environment.

INFORMATION/BACKGROUND

On July 19, 2022, the Denton City Council adopted the City of Denton’s Comprehensive Solid Waste Management Strategy to guide the City’s future solid waste/materials management system and to develop infrastructure, programs, and policies necessary to manage the diversion of materials for ultimate disposal. As a part of this strategy, Styrofoam was identified as a major contaminant in our recycling stream. While Styrofoam is recyclable, it is not a programmatic material for our recycling partner, Pratt Industries, as it clogs their sorting machines.

At the beginning of 2024, the City of Denton was awarded a \$70,850 grant from the North Central Texas Council of Governments to purchase a Styrofoam densifier. The densifier will not only give the citizens an opportunity to recycle their packing materials, but it will also keep this material out of the landfill, extending its life. Styrofoam will still not be accepted in recycling carts or dumpsters. Customers will be required to deliver the material to the drop-off location at the Home Chemical Collections building at 1527 South Mayhill Road.

Request for Proposals was sent to 121 prospective suppliers, including six (6) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Two (2) proposals were received, with one (1) meeting specifications. References were checked, and proposals were evaluated based upon published criteria including schedule, compliance with specifications, probable performance, and price. Best and Final Offers (BAFO) were requested from the top firm. Based upon this evaluation, Runi Recycling Machinery Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	545 - Machinery and Hardware, Industrial
Notifications sent for Solicitation sent in IonWave:	121
Number of Suppliers that viewed Solicitation in IonWave:	22
HUB-Historically Underutilized Business Invitations sent out:	9
SBE-Small Business Enterprise Invitations sent out:	53
Responses from Solicitation:	2
Responses Meeting Specifications:	1

RECOMMENDATION

Award a contract with Runi Recycling Machinery Inc., for the purchase and installation of a SK240 Styrofoam densifier for the Solid Waste and Recycling Department, in a not-to-exceed amount of \$79,000.

PRINCIPAL PLACE OF BUSINESS

Runi Recycling Machinery Inc.
Bensenville, IL

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval with a completion date within 100 days.

FISCAL INFORMATION

These services will be funded from Solid Waste account 660275344.1355.30100. Requisition # 169066 has been entered into the Purchasing software system in the amount of \$79,000. The grant will reimburse the City \$70,850, leaving the City to fund \$8,150 of this purchase.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance and Contract

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

For information concerning this acquisition, contact: J.J. Tips, 940-349-8042.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH RUNI RECYCLING MACHINERY INC., FOR THE PURCHASE AND INSTALLATION OF A SK240 STYROFOAM DENSIFIER FOR THE SOLID WASTE AND RECYCLING DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8662 – AWARDED TO RUNI RECYCLING MACHINERY INC., IN THE NOT-TO-EXCEED AMOUNT OF \$79,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the purchase and installation of a SK240 Styrofoam densifier for the Solid Waste and Recycling Department; and

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

WHEREAS, this procurement was undertaken as part of the City’s governmental function [Garbage and solid waste removal, collection, and disposal]; and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

<u>RFP NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8662	Runi Recycling Machinery Inc.	\$79,000.00

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

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal and related documents herein approved and accepted.

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

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

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

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

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

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

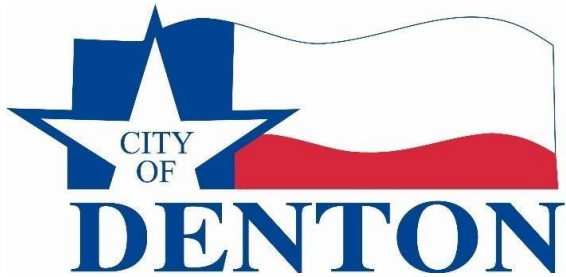
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



Docusign City Council Transmittal Coversheet

RFP	8662
File Name	STYROFOAM DENSIFIER
Purchasing Contact	Crystal westbrook
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND RUNI RECYCLING MACHINERY INC.
(Contract #8662)**

THIS CONTRACT is made and entered into this date _____, by and between Runi Recycling Machinery Inc., a Delaware corporation, whose address 371 Country Club Drive, Bensenville, IL 60106, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City,” to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City’s RFP #8662 Styrofoam Densifier, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) City of Denton’s RFP 8662 (the “Solicitation”) (**Exhibit “B” on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) Contractor’s Proposal and Order of Confirmation (“Contractor’s Offer”) (**Exhibit “E”**);
- (f) Insurance Requirements (**Exhibit “F”**);
- (g) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “G”**)

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

Prohibition on Contracts with Companies Boycotting Israel

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the Contract.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

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

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

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

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

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

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

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

Signed by:

Brian Boerner

DCD14331B889A4A9...

SIGNATURE

Brian Boerner

PRINTED NAME

Director of solid waste

TITLE

SWR

DEPARTMENT

Signed by:

Torben Dysager

FCC6FED81C23480

CONTRACTOR BY:

AUTHORIZED SIGNATURE

Printed Name: Torben Dysager

Title: President

+4561611997

PHONE NUMBER

td@runi.dk

EMAIL ADDRESS

2025- 1269388

TEXAS ETHICS COMMISSION

CERTIFICATE NUMBER

ATTEST:
LAUREN THODEN, CITY SECRETARY

CITY OF DENTON, TEXAS

BY: _____

BY: _____

SARA HENSLEY
CITY MANAGER

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

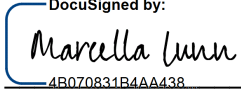
BY:  _____
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Exhibit A

Special Terms and Conditions

PREAMBLE

1. These General Conditions shall apply when the parties agree thereto. Any modifications of or deviations from them must be agreed In Writing.

DEFINITIONS

2. In these General Conditions the following terms shall have the meanings hereunder assigned to them:

- **"Contract"**: the agreement In Writing between the parties concerning delivery of the Product and performance of the Works and all appendices, including agreed amendments and additions In Writing to the said documents;
- **"Contract Price"**: the agreed price for the Works, which shall be either a fixed price or, in case the parties have specifically agreed on a price revision clause, the revised price. If installation is to be carried out on a time basis and has not been completed, the Contract Price for the purposes of Clauses 20, 40 and 41 shall be the price for the Product with the addition of 10 per cent or of any other percentage that may have been agreed by the parties;
- **"Negligence"**: a failure to take such care as is reasonable in the circumstances to avoid consequences for the other party;
- **"In Writing"**: communication by document signed via physical signature or electronic signature platform by both parties or by letter, electronic mail, fax and by such other means as are agreed by the parties;
- **"Product"**: the object(s) to be supplied under the Contract, including software and documentation;
- **"Site"**: the place where the Product is to be installed, including as much of the surrounding area as is necessary for unloading, storage and internal transport of the Product and installation equipment;
- **"Works"**: the Product, installation of the Product and any other work to be carried out by the Contractor under the Contract. If the Works shall according to the Contract be taken over by separate sections intended to be used independently from each other, these Conditions shall apply to each section separately. The term "Works" shall then refer to the section in question.

PRODUCT INFORMATION/INSTRUCTIONS

3. All information and data contained in general product documentation and price lists, regardless of form, shall be binding only to the extent that they are by reference In Writing expressly included in the Contract.
4. The Contractor shall, not later than at the date of taking-over, provide free of charge information, drawings and instructions which are necessary to permit the Purchaser to commission, operate and maintain the Works. Such information, drawings

and instructions shall be supplied as one paper copy of each and also electronically. The Contractor shall not be obliged to provide manufacturing drawings for the Product or for spare

parts.

INTELLECTUAL PROPERTY AND CONFIDENTIALITY

5. All intellectual property rights in the Works, including in any embedded software, and in any technical information relating to the Works, shall rest with the Contractor or, in the appropriate case, with a third party which has licensed the Contractor to sublicense these rights. Subject to any limitations that may have been agreed between the third party and the Contractor, the Purchaser shall acquire a non-exclusive, perpetual and transferable right to use these intellectual property rights, but limited to the extent required by the purpose of the Contract. The Contractor shall not be obliged to provide the Purchaser with the source code or with updates for any embedded software, unless specifically agreed In Writing or required by law.

This clause shall also apply when the Works and/or software has been specifically developed for the Purchaser, unless otherwise agreed In Writing.

6. Technical, commercial and financial information and information, which has been clearly marked as confidential shall be treated confidentially. The information shall therefore not without the consent of the disclosing party In Writing be used for any other purpose than that for which it was provided. It may not, without the consent of the disclosing party In Writing, be transmitted, communicated or otherwise disclosed to a third party. 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. 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*.

FACTORY ACCEPTANCE TESTS

7. Factory acceptance tests provided for in the Contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours.

If the Contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.

8. The Contractor shall notify the Purchaser In Writing of these tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented, the test report shall be sent to the Purchaser and shall be accepted as accurate.
9. If the tests show the Product not to be in accordance with the Contract, the Contractor shall without delay remedy any deficiencies in order to ensure that the Product complies with the Contract. New tests shall then be carried out at the Purchaser's request, unless the deficiency was insignificant.
10. The Contractor shall bear all costs for tests before shipment of the Product. The Purchaser shall however bear all travelling and living expenses for his representatives in connection with such tests.

PREPARATORY WORK AND WORKING CONDITIONS

11. The Contractor shall in good time provide drawings showing the manner in which the Product is to be installed, together with all information required for preparing suitable foundations, for providing access for the Product and any necessary equipment to the Site and for making all necessary connections to the Works.
12. The Purchaser shall in good time undertake preparatory work to ensure that the conditions necessary for installation of the Product and for the correct operation of the Works are fulfilled. This shall not apply to preparatory work which according to the Contract shall be performed by the Contractor.
13. The preparatory work referred to in Clause 12 shall be carried out by the Purchaser in accordance with the drawings and information provided by the Contractor under Clause 11. In any case the Purchaser shall ensure that the foundations are structurally sound. If the Purchaser is responsible for transporting the Product to the Site, he shall ensure that the Product is on the Site before the agreed date for starting the installation work.
14. The Purchaser shall ensure that the following conditions are satisfied:
 - a) The Contractor's personnel are able to start work in accordance with the agreed time schedule and to work during normal working hours. The Contractor shall be allowed to perform work outside normal working hours to the extent deemed necessary by him, but based on prior agreement In Writing between the Parties as regards the exact date and time;
 - b) he has, in good time before installation is started, informed the Contractor In Writing of all relevant safety regulations in force at the Site to be observed by the Contractor's personnel. Installation shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken before installation is started and shall be maintained during the time of installation;
 - c) the Contractor's personnel are able to obtain appropriate board and lodging near the Site and have access to internationally acceptable hygiene facilities and medical services;
 - d) he has made available to the Contractor free of charge at the proper time on the Site all necessary cranes, lifting equipment and equipment for transport on the Site, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease, gas, water, electricity, steam, compressed air, heating and lighting), as well as the measuring and testing instruments of the Purchaser available on the Site. The Contractor shall specify In Writing his requirements in this respect at the latest one month before the agreed date for starting the installation work;
 - e) Intentionally Omitted;
 - f) Intentionally Omitted;
 - g) the access routes to the Site are suitable for the required transport of the Product and the Contractor's equipment;
 - h) all necessary permits and other official authorizations for carrying out the installation work shall be available, insofar as these can only be obtained by the Purchaser. The Contractor shall assist by providing information and documentation that the Purchaser may reasonably request for obtaining such permits and authorizations.

15. Upon the Contractor's request in good time, the Purchaser shall make available to the Contractor, free of charge, such labor and operators as may be specified in the Contract. The persons made available by the Purchaser under this clause shall provide their own tools. The Contractor shall not be liable for such labor provided by the Purchaser or for any acts or omissions of the persons concerned.
16. The parties shall, no later than when the Contractor gives notice that the Product is ready for dispatch from the place of manufacture, each appoint a representative In Writing to act on their behalf during the work on the Site.

The representatives shall be present on or near the Site during working hours. Unless otherwise specified in the Contract, the representatives shall be authorized to act on behalf of their respective party in all matters concerning the installation work. Wherever these General Conditions stipulate that a notice shall be given In Writing, the representative shall always be authorized to receive such notice on behalf of the party he represents.

17. The Contractor shall keep a site register in which he shall note any problems encountered, including any breach of safety regulations. He shall also note in this register any waiting time due to the Purchaser's failure to fulfil any of his obligations or due to other circumstances. This site register shall be updated daily and be available to the Purchaser.

PURCHASER'S DEFAULT

18. If the Purchaser anticipates that he will be unable to accept delivery of the Product at the agreed time for delivery or to fulfil in time his obligations necessary for carrying out installation, including complying with the conditions specified in Clauses 10-15, he shall forthwith notify the Contractor In Writing, stating the reason and, if possible, the time when he will be able to carry out his obligations.
19. Without prejudice to the Contractor's rights under Clause 20, if the Purchaser fails to accept delivery of the Product at the agreed time for delivery or to fulfil, correctly and in time, his obligations necessary for carrying out installation, including to comply with the conditions specified in Clauses 10-15, the following shall apply:
 - a) The Contractor may at his own discretion choose to carry out or employ a third party to carry out the Purchaser's obligations or otherwise take such measures as are appropriate under the circumstances in order to avoid or alleviate the effects of the Purchaser's default.
 - b) The Contractor may suspend in whole or in part his performance of the Contract. He shall forthwith notify the Purchaser In Writing of such suspension.
 - c) If the Product has not yet been delivered to the Site, the Contractor shall arrange for storage of the Product at the Purchaser's risk. The Contractor shall also, if the Purchaser so requires, insure the Product.
 - d) The Purchaser shall pay any part of the Contract Price which, but for the default, would have become due.
 - e) The Purchaser shall reimburse the Contractor for any costs resulting from items a) and c) and for any other costs not covered by Clause 44 or 45, which are reasonably incurred by the Contractor as a result of the Purchaser's default.
20. If taking-over is prevented by the Purchaser's default as referred to in Clause 19 and this is not due to any of the circumstances as mentioned in Clause 73, the Contractor may also by notice In Writing require the Purchaser to remedy his default within a final reasonable period.

If, for any reason which is not attributable to the Contractor and not the result of any of the circumstances mentioned in Clause 68, the Purchaser fails to remedy his default within such period, the Contractor may by notice In Writing terminate the Contract in whole or in part. The Contractor shall then be entitled to compensation for the loss he suffers by reason of the Purchaser's default, including any consequential and indirect loss. The compensation shall not exceed that part of the Contract Price which is attributable to that part of the Works in respect of which the Contract is terminated.

LAWS, REGULATIONS AND RULES

21. The Contractor shall ensure that the Works are carried out and are in accordance with any laws, regulations and rules which are applicable to the Works. If required by the Contractor, the Purchaser shall provide the relevant information on those laws, regulations and rules in Writing.

22. The Contractor shall carry out any variation work necessary to comply with changes in laws, regulations and rules, referred to in Clause 20, or in their generally accepted interpretation, occurring between the date of submission of the tender and taking-over. The Purchaser shall bear the extra costs and other consequences resulting from such changes, including variation work.

23. The Contractor shall be compensated for any time spent and costs made for any variation work at the rates and prices as normally charged by the Contractor. Before implementing the variations, the Contractor shall send the Purchaser an estimate of the impact on time and costs.

VARIATIONS

24. The Purchaser is entitled to request variations to the scope, design and construction of the Works until the Works have been taken over. The Contractor may suggest such variations In Writing.

25. Requests for variations shall be submitted to the Contractor In Writing and shall contain an exact description of the variation.

26. As soon as possible after receipt of a request for a variation, the Contractor shall inform the Purchaser In Writing on whether the variation can be carried out and if so, send the Purchaser a quotation for the resulting alteration to the Contract Price, the time for taking-over and other terms of the Contract. The quotation shall state a final date for acceptance thereof.

If the quotation of the Contractor is not accepted at the final date for acceptance, the execution of the Contract shall continue without implementing the requested variation.

27. PASSING OF RISK Intentionally Omitted

SITE ACCEPTANCE TESTS

28. When installation has been completed site acceptance tests shall, unless otherwise agreed, be carried out to determine whether the Works are as required for taking-over according to the Contract.

The Contractor shall notify the Purchaser In Writing that the Works are ready for taking-over. He shall in this notice give a date for site acceptance tests, giving the Purchaser sufficient time to prepare for and be represented at these tests.

The Purchaser shall bear all costs of site acceptance tests. The Contractor shall however bear

all costs relating to his personnel and his other representatives.

29. The Purchaser shall provide free of charge any power, lubricants, water, fuel, raw materials and other materials required for the site acceptance tests and for final adjustments in preparing for these tests. He shall also install free of charge any equipment and provide any labor or other assistance necessary for carrying out the site acceptance tests.

30. If, after having been notified in accordance with Clause 26, the Purchaser fails to fulfil his obligations under Clause 29 or otherwise prevents the site acceptance tests from being carried out, the tests shall be regarded as having been satisfactorily completed at the starting date for site acceptance tests stated in the Contractor's notice.

31. The site acceptance tests shall be carried out during normal working hours. If the Contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the Purchaser's country.

32. The Contractor shall prepare a report of the site acceptance tests. This report shall be sent to the Purchaser. If the Purchaser has not been represented at the site acceptance tests after having been notified in accordance with Clause 28, the test report shall be accepted as accurate.

33. If the site acceptance tests show the Works not to be in accordance with the Contract, the Contractor shall without delay remedy the deficiencies. If the Purchaser so requires In Writing without delay, new tests shall be carried out in accordance with Clauses 28-32. This shall not apply when the deficiency does not affect the efficiency of the Works.

TAKING-OVER

34. Taking-over of the Works shall be considered to take place:

- a) when the site acceptance tests have been satisfactorily completed or are regarded under Clause 30 as having been satisfactorily completed, or
- b) where the parties have agreed not to carry out site acceptance tests, when the Purchaser has received a Contractor's notice In Writing that the Works have been completed, unless the Purchaser within seven days after this notice substantiates that the Works are not as required for taking-over according to the Contract.

Minor deficiencies which do not affect the efficiency of the Works shall not prevent taking-over. The Contractor's obligation to install the Product at the Site is fulfilled when the Works are taken over pursuant to this Clause 34, notwithstanding his obligation to remedy any remaining minor deficiencies.

35. The Purchaser is not entitled to use the Works or any part thereof before taking-over. If the Purchaser does so without the Contractor's consent In Writing, the Works shall be deemed to have been taken over. The Contractor is then relieved of his duty to carry out site acceptance tests.

36. As soon as the Works have been taken over in accordance with Clause 34 or 35, the period referred to in Clause 55 shall start to run. The Purchaser shall, at the Contractor's request In Writing, issue a certificate stating when the Works have been taken over. The Purchaser's failure to issue a certificate shall not affect taking-over according to Clauses 34 and 35.

CONTRACTOR'S DELAY

37. If the parties, instead of specifying the date for taking-over, have specified a period of time within which taking-over shall take place, such period shall start to run as soon as the Contract is entered into and all agreed preconditions to be met by the Purchaser have been fulfilled, such as official formalities, payments due at the formation of the Contract and securities.

38. If the Contractor anticipates that he will not be able to fulfil his obligations for taking-over before or at the time for taking-over, he shall forthwith notify the Purchaser thereof In Writing, stating the reason and, if possible, the time when taking-over can be expected.

If the Contractor fails to give such notice, the Purchaser shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

39. The Contractor shall be entitled to an extension of the time for taking-over if delay occurs:

- a) due to any of the circumstances referred to in Clause 68 or
- b) as a result of variation work under Clause 18, or Clauses 24-26 or
- c) as a result of suspension under Clauses 20, 48 or 70 , or
- d) by an act or omission on the part of the Purchaser or any other circumstances attributable to the Purchaser.

The extension shall be as necessary having regard to all the relevant circumstances. This provision applies regardless of whether the reason for the delay occurs before or after the agreed time for taking-over.

40. If the Works are not completed at the agreed time for taking over, the Purchaser shall be entitled to liquidated damages from the date on which taking-over should have taken place.

The liquidated damages shall be payable at a rate of 0.5 per cent of the Contract Price for each commenced week of delay. The liquidated damages shall not exceed 7.5 per cent of the Contract Price.

If only part of the Works is delayed, the liquidated damages shall be calculated on that part of the Contract Price which is attributable to such part of the Works as cannot in consequence of the delay be used as intended by the parties.

The liquidated damages become due at the Purchaser's demand In Writing, but not before taking-over has taken place or the Contract is terminated under Clause 41.

The Purchaser shall forfeit his right to liquidated damages if he has not lodged a claim In Writing for such damages within six months after the time when taking-over should have taken place.

41. If the delay is such that the Purchaser is entitled to maximum liquidated damages under Clause 40 and if the Works are still not ready for taking-over, the Purchaser may In Writing demand completion of the Works within a final reasonable period which shall not be less than one week.

If the Contractor does not complete the Works within such final period and this is not due to any circumstance which is attributable to the Purchaser, then the Purchaser may by notice In Writing to the Contractor terminate the Contract in respect of such part of the Works as cannot in consequence of the Contractor's failure be used as intended by the parties.

If the Purchaser terminates the Contract he shall be entitled to compensation for the loss he suffers as a result of the Contractor's delay, including any consequential and indirect loss. The total compensation, including the liquidated damages which are payable under Clause 40 shall not exceed 15 per cent of that part of the Contract Price which is attributable to the part of the Works in respect of which the Contract is terminated.

The Purchaser shall also have the right to terminate the Contract by notice In Writing to the Contractor if it is clear from the circumstances that there will occur a delay in taking-over of the Works which under Clause 40 would entitle the Purchaser to maximum liquidated damages. In

case of termination for this reason, the Purchaser shall be entitled to maximum liquidated damages and compensation under the third paragraph of this Clause 41.

42. Liquidated damages under Clause 40 and termination of the Contract with limited compensation under Clause 41 shall be the only remedies available to the Purchaser in case of delay on the part of the Contractor. All other claims against the Contractor based on such delay shall be excluded, except where the Contractor has been guilty of Negligence.

PAYMENT

43. Payment shall be made within sixty days after the receipt of the invoice. Unless otherwise agreed, the Contract Price shall be invoiced as follows:

- a) when installation is to be carried out on a time basis:
 - one third of the agreed price for the Product at the formation of the Contract,
 - the remaining part on delivery of the Product in accordance with Section 1 and 2 of Exhibit C.

Payment for installation shall be made against monthly invoices.

- b) when installation is included in a lump sum Contract Price:
 - 50 per cent of the Contract Price at the formation of the Contract,
 - ,
 - the remaining part of the Contract Price on taking-over.

44. When installation is to be carried out on a time basis the following items shall be separately charged:

- a) all reasonable travelling expenses incurred by the Contractor in respect of his personnel and the transport of their equipment and personal effects in accordance with the specified method and class of travel where these are specified in the Contract;
- b) cost of board and lodging and other living expenses, including any appropriate allowances of the Contractor's personnel for each day's absence from their homes, including non-working days and holidays. The daily allowances shall be payable even during incapacity caused by sickness or accident;
- c) the time worked, which shall be calculated by reference to the number of hours certified as worked in the time-sheets signed by the Purchaser. Overtime and work on Sundays, holidays and at night shall be charged at special rates. The rates shall be as agreed in the Contract or, failing agreement, as normally charged by the Contractor. Save as otherwise provided, the hourly rates cover the normal wear and tear of the Contractor's tools and light equipment;
- d) time necessarily spent on:
 - preparation and formalities incidental to the outward and homeward journeys of the Contractor's personnel,
 - the outward and homeward journeys and other journeys to which the personnel are entitled in accordance with current law, regulations or collective agreements in the Contractor's country,

- daily travel of the Contractor's personnel between lodgings and the Site, if and as far as it exceeds half an hour each way and there are no suitable lodgings available closer to the Site;
- e) any expenses incurred by the Contractor in accordance with the Contract in connection with the provision of equipment by him, including where appropriate a charge for the use of the Contractor's own heavy equipment;
- f) Intentionally Omitted.
- g) any costs which could not reasonably be foreseen by the Contractor and which are caused by a circumstance which is not attributable to the Contractor;
- h) any extra costs resulting from the applicability of mandatory rules of the Purchaser's country in the social field;
- i) any costs, expenses and time spent resulting from extra work which is not attributable to the Contractor.

If these costs are time-related, they shall be charged at the rates referred to in this Clause 44 under c).

45. When installation is to be carried out for a lump sum, the Contract Price shall be deemed to include all the items mentioned in Clause 44, a) through e). Any items mentioned in Clause 40 , g) through i), shall be deemed to be excluded from the Contract Price and shall therefore be charged separately. If these costs are time-related, they shall be charged at the rates referred to in Clause 44 under c).

46. If, both in case of installation on a time basis and when installation is included in a lump sum, installation is delayed due to a cause which is not attributable to the Contractor and not due to any of the circumstances referred to in Clause 68 the Purchaser shall compensate the Contractor for any resulting additional costs, including but not limited to:

- a) waiting time and time spent on extra journeys;
- b) costs and extra work resulting from the delay, including removing, securing and setting up installation equipment;
- c) additional costs, including costs as a result of the Contractor having to keep his equipment at the Site for a longer time than expected;
- d) additional costs for journeys and board and lodging for the Contractor's personnel;
- e) additional financing costs and costs of insurance;
- f) other documented costs incurred by the Contractor as a result of such delays.

If these costs are time-related, they shall be charged at the rates referred to in Clause 44 under c).

47. Whatever the means of payment used, payment shall not be deemed to have been effected before the Contractor's account has been irrevocably credited for the amount due.

48. If the Purchaser fails to pay by a stipulated date with an additional grace period of 30 days, the Contractor shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be as agreed between the parties or otherwise 10 percent. The compensation for recovery costs shall be 1 per cent of the amount for which interest for late payment becomes due.

In case of late payment or in case the Purchaser fails to give an agreed security by the stipulated date the Contractor may, after having notified the Purchaser In Writing, suspend his performance of the Contract until he receives payment or, where appropriate, until the Purchaser gives the agreed security.

If the Purchaser has not paid the amount due within three months, the Contractor shall be entitled to terminate the Contract by notice In Writing to the Purchaser and, in addition to the interest and compensation of recovery costs according to this clause, to claim compensation for the costs and loss he incurs, including indirect and consequential damages.

RETENTION OF TITLE

49. The Product shall remain the property of the Contractor until paid for in full, including payment for installation of the Product, to the extent that such retention of title is valid under the relevant law.

The Purchaser shall at the request of the Contractor assist him in taking any measures necessary to protect the Contractor's title to the Product.

LIABILITY FOR DAMAGE BEFORE TAKING-OVER

50. The Contractor shall be liable for damage to the Purchaser's property occurring before taking-over of the Works only if it is proved that such damage was caused by negligence on the part of the Contractor or anyone for whom he is responsible in connection with the performance of the Contract. The Contractor shall however under no circumstances be liable for loss of production, loss of profit or any other consequential or indirect loss.

51. In case the Contractor is not liable for damage to the Works, the Purchaser may still require the Contractor to remedy the damage, be it at the Purchaser's cost.

LIABILITY FOR DEFECTS

52. The Works shall be in conformity with the Contract. Pursuant to the provisions of this clause and Clauses 53-66, the Contractor shall remedy any defect in or nonconformity of the Works (hereinafter termed defect) resulting from faulty design, materials or workmanship.

53. The Contractor shall only be liable for defects which appear under the conditions of operation provided for in the Contract and under proper use of the Works.

54. The Contractor shall not be liable for defects caused by circumstances which arise after the risk has passed to the Purchaser, e.g. defects due to faulty or incorrect maintenance or repair by the Purchaser or to any alteration carried out by the Purchaser or by a third party on behalf of the Purchaser. The Contractor shall neither be liable for normal wear and tear nor for deterioration.

55. The Contractor's liability shall be limited to defects in the Works which appear within a period of one year from taking-over unless otherwise agreed on the order confirmation. If the use of the Works exceeds that which is agreed, this period shall be reduced proportionately. If taking-over has been delayed for reasons which are attributable to the Purchaser, the Contractor's liability for defects shall not, except as stated in Clause 56, be extended beyond 18 months after delivery of the Product.

56. When a defect in a part of the Works has been remedied, the Contractor shall be liable for defects in the repaired part or in the part in replacement under the same terms and conditions as those applicable to the original Works for a period of one year. For the remaining parts of the Works the period mentioned in Clause 55 shall be extended only by a period equal to the period during which and to the extent that the Works could not be used as a result of the defect.

The Contractor shall not be liable for defects in any part of the Works for more than one year from the end of the liability period referred to in Clause 55 or from the end of any other liability period agreed upon by the parties.

57. The Purchaser shall without undue delay notify the Contractor In Writing of any defect which appears. The notice shall contain a description of the defect. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in Clause 55 or the extended period(s) under Clause 56, where applicable.

If the Purchaser fails to notify the Contractor In Writing of a defect within the time limits set forth in the first paragraph of this clause, he shall lose his right to have the defect remedied and any other rights in respect of the defect.

Where the defect is such that it may cause damage, the Purchaser shall immediately notify the Contractor In Writing. The Purchaser shall bear the risk of damage to the Works resulting from his failure so to notify. The Purchaser shall take reasonable measures to minimize damage and shall in that respect comply with instructions of the Contractor.

58. On receipt of the notice under Clause 57 the Contractor shall at his own cost remedy the defect without undue delay, as stipulated in Clauses 52-69. The time for remedial work shall be chosen in order not to interfere unnecessarily with the Purchaser's activities.

Remedial work shall be carried out at the Site, unless the Contractor deems it more appropriate, having regard to the interests of both parties, that the defective part or the Product is sent to him or a destination specified by him.

Where remedial work is carried out at the Site, Clauses 12-15 and 50 shall apply correspondingly. If the defect can be remedied by replacement or repair of a defective part and if dismantling and re-installation of the part do not require special knowledge, the Contractor may demand that the defective part is sent to him or a destination specified by him. In such case the Contractor shall have fulfilled his obligations in respect of the defect when he delivers a duly repaired part or a part in replacement to the Purchaser.

59. The Purchaser shall at his own expense provide safe access to the Works and arrange for any intervention in equipment other than the Works, to the extent that this is necessary to remedy the defect.

60. Unless otherwise agreed, necessary transport of the Product or parts thereof to and from the Contractor in connection with the remedying of defects for which the Contractor is liable shall be at the risk and expense of the Contractor. The Purchaser shall follow the Contractor's instructions regarding such transport.

61. Unless otherwise agreed, the Purchaser shall bear any additional costs which the Contractor incurs for remedying the defect caused by the Works being located in a place other than the Site.

62. Defective parts which have been replaced shall be made available to the Contractor and shall be his property.

63. If the Purchaser has given such notice as mentioned in Clause 57 and no defect is found for which the Contractor is liable, the Contractor shall be entitled to compensation for the costs he incurs as a result of the notice.

64. If the Contractor does not fulfil his obligations under Clause 58, the Purchaser may by notice In Writing fix a final reasonable period for fulfilment of the Contractor's obligations, which shall not be less than one week.

If the Contractor fails to fulfil his obligations within such final period, the Purchaser may himself undertake or employ a third party to undertake necessary remedial work at the risk and expense of the Contractor, provided the Purchaser or third party does so in a professional manner.

Where successful remedial work has been undertaken by the Purchaser or a third party, reimbursement by the Contractor of reasonable costs incurred by the Purchaser shall be in full settlement of the Contractor's liabilities for the said defect.

65. Where the defect has not been successfully remedied, as stipulated under Clause 64:

- a) the Purchaser shall be entitled to a reduction of the Contract Price in proportion to the reduced value of the Works, provided that under no circumstances shall such reduction exceed 15 per cent of the Contract Price, or
- b) where the defect is so substantial as to significantly deprive the Purchaser of the benefit of the Contract as regards the Works or a substantial part of it, the Purchaser may terminate the Contract by notice In Writing to the Contractor in respect of such part of the Works as cannot in consequence of the defect be used as intended by the parties. The Purchaser shall then be entitled to compensation for any loss, including any consequential and indirect loss, up to a maximum of 15 per cent of that part of the Contract Price which is attributable to the part of the Works in respect of which the Contract is terminated.

66. Save as stipulated in Clauses 52-65, the Contractor shall not be liable for defects. In consequence, the Contractor shall not be liable for any other loss the defect may cause, including loss of production, loss of profit and other indirect loss. This limitation of the Contractor's liability shall not apply if he has been guilty of Negligence.

LIABILITY FOR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

67. Unless otherwise agreed, the Contractor shall, in accordance with this clause and Clauses 73-76, be liable towards the Purchaser for the Works infringing patents, copyrights or any other intellectual property rights of a third party in the country where the Site is located. The Contractor shall in such case indemnify the Purchaser and hold the Purchaser harmless against claims of third parties, provided that such claims are confirmed as valid by a final award or a settlement approved by the Contractor. The Contractor shall however not be liable for the Purchaser's loss of production, loss of profit, loss of use and loss of contracts, unless the Contractor has been guilty of Negligence.

68. The Contractor shall have no liability for infringement of intellectual property rights arising out of:

- the Works being used elsewhere than in the country where the Site is located;
- the Works being used otherwise than agreed or in a way the Contractor could not have foreseen;
- the Works being used together with equipment or software not supplied by the Contractor, or
- a design or construction stipulated or specified by the Purchaser.

69. The Contractor shall only be liable if the Purchaser notifies the Contractor In Writing without delay of any claim as referred to in Clause 67 which he receives and allows the Contractor to decide how the claim shall be dealt with.

Defense against claims referred to in Clause 67 shall be for the Contractor's account. The Contractor shall compensate the Purchaser for any amounts the latter is obliged to pay under a final award or a settlement approved by the Contractor.

70. Infringement of intellectual property rights shall, at the Contractor's discretion, be remedied by:

- providing the right for the Purchaser to use the Works,
- adjusting the Works so that the infringement ceases, or
- by replacing the Product with another product, which can be used without infringing applicable intellectual property rights.

71. If the Contractor fails to remedy the infringement in accordance with Clause 70 without undue delay, Clauses 64-66 shall apply.

ALLOCATION OF LIABILITY FOR DAMAGE CAUSED BY THE WORKS

72. The Contractor shall not be liable for any damage to property caused by the Works after taking-over and whilst the Works are in the possession of the Purchaser. Nor shall the Contractor be liable for any damage to products manufactured by the Purchaser or to products of which the Purchaser's products form a part.

If a claim for damage as described in this clause is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof In Writing.

The Contractor and the Purchaser shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Works. The liability between the Contractor and the Purchaser shall however be settled in accordance with Clause 77.

The limitation of the Contractor's liability in the first paragraph of this clause shall not apply where the Contractor has been guilty of Negligence.

FORCE MAJEURE

73. Either party shall be entitled to suspend performance of his obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by force majeure, meaning any of the following circumstances: industrial disputes and any circumstance beyond the control of the parties, such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and import or export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this clause.

A circumstance referred to in this clause, whether occurring prior to or after the formation of the Contract, shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

74. The party claiming to be affected by force majeure shall notify the other party In Writing, within 5 business days, on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

If force majeure prevents the Purchaser from fulfilling his obligations, he shall compensate the Contractor for costs which the Contractor incurs in storing, securing and protecting the Works and avoiding unreasonable interference with his other activities.

Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the Contract by notice In Writing to the other party if performance of the Contract is suspended under Clause 66 for more than six months.

ANTICIPATED NON-PERFORMANCE

75. Each party shall be entitled to suspend the performance of his obligations under the Contract where it is clear from the circumstances that the other party is not going to perform his obligations. A party suspending his performance of the Contract shall forthwith notify the other party thereof In Writing and shall not suspend performance if the other party provides sufficient information regarding its intended performance.

CONSEQUENTIAL LOSSES

76. Save as otherwise stated in these General Conditions or in case of Negligence, there shall be no liability for either party towards the other party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever, whether the loss was foreseeable or not.

77. GOVERNING LAW AND ARBITRATION

All matters arising out of or relating to these General Conditions, any Contract between the parties or any order of products or services from RUNI or sale of products or services to Purchaser shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the State of Texas . Any dispute, controversy or claim arising out of, relating to, or in connection with, these General Conditions, any Contract between the parties or any order of products or services from RUNI or sale of products or services to Purchaser, or any breach, termination or validity thereof will be resolved following the dispute resolution procedure set forth in Exhibit C or submitted to the State courts in Denton County, Texas or the federal courts of the Eastern District of Texas

78. For the duration of the Contract and until expiration of Contractor's warranties required per the Contract, Contractor shall, at its own cost and expense, obtain and maintain through a reputable primary insurance company licensed in the jurisdiction where the Works will be installed, adequate insurance to cover all of its obligations under the Contract or as required by law. Upon Purchaser's request, Contractor shall provide Purchaser with a certificate of insurance from Contractor's insurer, evidencing the insurance.

Additional conditions:

1. Authorized Distributor

The Contractor shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton, and make available the manufacturer's representative as needed by the City.

2. Total Contract Amount

The contract total shall not exceed \$79,000. Any costs that exceed this total contract amount will be subject to review and approval by the City following the procedures set forth in the City of Denton Procurement Manual.

3. Delivery Lead Time

Products and services will deliver according to Order Confirmation schedule.

Exhibit B
City of Denton's RPF #8662

On File at the Office of the Purchasing Agent

Exhibit C
City of Denton
Additional Purchase Terms and Conditions

1. **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.

2. **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.

3. **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.

4. **COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent

safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

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

5. 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. 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. Intentionally Omitted.

D. Intentionally Omitted.

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.

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

7. 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 Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

8. INDEMNITY:

A. DEFINITIONS:

I. "INDEMNIFIED CLAIMS" SHALL INCLUDE ANY AND ALL CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, JUDGMENTS, AND LIABILITIES OF EVERY CHARACTER, TYPE, OR DESCRIPTION, INCLUDING ALL REASONABLE COSTS AND EXPENSES OF LITIGATION, MEDIATION, OR OTHER ALTERNATIVE DISPUTE RESOLUTION MECHANISMS, INCLUDING ATTORNEY AND PROFESSIONAL FEES, FOR:

- 1. DAMAGE TO OR LOSS OF 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:

- 1. THE SALE OF DEFECTIVE OR NON-CONFORMING DELIVERABLES,**
- 2. NEGLIGENCE OR WILLFUL MISCONDUCT, OR**
- 3. A BREACH OF ANY LEGALLY IMPOSED STRICT LIABILITY STANDARD.**

B. INDEMNIFICATION OBLIGATION:

THE CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS FROM AND AGAINST ALL INDEMNIFIED CLAIMS TO THE EXTENT SUCH CLAIMS DIRECTLY ARISE FROM THE FAULT OF THE CONTRACTOR OR THE CONTRACTOR'S AGENTS, EMPLOYEES, OR SUBCONTRACTORS IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT.

C. LIMITATIONS:

- 1. THE CONTRACTOR SHALL HAVE NO OBLIGATION TO INDEMNIFY OR DEFEND THE CITY FOR CLAIMS TO THE EXTENT SUCH CLAIMS RESULT FROM:**
 - o THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF DUTY BY THE CITY, ITS AGENTS, EMPLOYEES, OR THIRD-PARTY CONTRACTORS UNDER THE DIRECTION OF THE CITY.**
 - o THE CITY'S FAILURE TO PROPERLY MAINTAIN, REPAIR, OR USE ANY DELIVERABLES PROVIDED UNDER THE CONTRACT IN ACCORDANCE WITH THE MANUFACTURER'S MANUAL.**
- 2. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF EITHER PARTY (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION OR INDEMNIFICATION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

9. 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,

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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.

10. **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.

11. **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.

12. Intentionally Omitted.

13. **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.

14. **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.

15. **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

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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.

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

17. 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.

18. 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.

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

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

The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal

documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

21. **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.

22. **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. Negotiation between the parties may be held virtually. 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 through the American Arbitration Association Commercial Mediation Procedures. 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.

23. **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 8662

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.

24. **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.

25. **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.

26. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:

- A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
- B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.

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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.

27. 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).

28. 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.

29. 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.

30. 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.

31. 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.

32. 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

Contract 8662

such damage within one (1) calendar day.

33. 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.

34. 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.

35. 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.

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

Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

1. Log onto the State Ethics Commission Website at :
https://www.ethics.state.tx.us/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 E

				RUNI Recycling Machinery
Line #	Description	QTY	UOM	BAFO Pricing
3	Densifier System (SK240)	1	EA	\$75,000.00
4	Installation	1	EA	\$4,000.00



Technical Data	SK240
Material	EPS (Airpop, Styrofoam)
Capacity per Hour *) Daily Capacity *)	Up to 165 lbs. 1650 lbs.
Recommended Annual Amount of EPS	30-50 tons
Block Measurement	10 x 10 inch
Feed-opening Dimension, Inlet (Standard)	31 x 17 inch
Weight	2550 lbs.
Noise Level (Distance 3 Feet)	With material: 90-113 db.
Machine Dimension (LxWxH) (Standard)	168 x 47 x 86 inch
Motor Power (HP)	Main motor: 9 hp (6.6 kW) Hydraulic pump: 0.9 hp (0.66 kW) HD-precruiser: 6.5 (4,8 kW) Agitator: 0.4 hp (0.3 kW)
Power Supply	3x480 V, 60 Hz, 32A UL (only components)



Order number 100780	Customer number 10510			
Order date 03/26/2025	Printout date 04/10/2025			
Your VAT reg. no.	Your order no. Contract 8662	Our reference Ross Tuneberg	Your reference Crystal Westbrook	Page 1/2

Mailing address City of Denton, Texas 215 E McKinney St Denton Texas 76201	Delivery address City of Denton, Texas 901-B Texas Street Denton Texas 76209
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Delivery terms DAP - Incoterms 2020	Payment terms 30 days net cash Penalty interest will be charged at 10.00%
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Part no.	Name	Ship date	Quantity	Price each	%	Amount
	SK240 for Compacting EPS					
5610000002	SK240 Screw Compactor for EPS		1,00 pcs	75.000.00		75.000,00



Capacity: 165 lbs/hr

Power Supply: 3x480V, 60 Hz
Main motor: 9 hp (6.6 kW)
Hydraulic pump: 0.9 hp (0.66 kW)
Pre-crusher: 5.6 hp (4.8 kW)
Mixer: 0.4 hp (0.3 kW)

- Machine Details:
- SK240 basic machine. Including temperature sensor package..Cold start + anti melt. Reading temperature at hydraulic jaws
 - Control box for basic machine with 5.7" screen. Includes Remote Access it (Secomea) for LAN and SIM card (SIM card included - 10 Years)
 - UL standard approved components: electrical components in control panel, motor, and wires (Machine as a unit is not UL approved)
 - Hopper, 45 degree angle with Heavy Duty pre-crusher. 1000mm width, including agitator, 3x photocells, and Plexiglass inspection door
 - Capacity Regulator
 - Pressure chamber including hydraulic pump, square jaws, and matrix.
 - Stabilization chamber for block form EPS
 - Exit chute, 2000mm long
 - Speed control - meltdown sensor and "Easy Break" function
 - RUNI Start Kit including hydraulic oil, gear oil, grease, and grease pump.

Terms of the Remote Access Kit:
- The included SIM card provided is solely for the operation of the RUNI machine. Any misuse of the SIM card will result in immediate suspension.

Mailing address RUNI Recycling Machinery Inc. 351 Country Club Dr. Bensenville Illinois 60106 USA	Phone: +1-630-422-3172 E-mail: runi-us@runi.dk Website: www.compactor-runi.com	Bank name: Account Routing no. SWIFT
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Order number 100780	Customer number 10510			
Order date 03/26/2025	Printout date 04/10/2025			
Your VAT reg. no.	Your order no. Contract 8662	Our reference Ross Tuneberg	Your reference Crystal Westbrook	Page 2/2

Part no.	Name	Ship date	Quantity	Price each	%	Amount
	<p>- Please note that RUNI will not guarantee that the supplied SIM card will function in all countries. Customers may need to obtain and cover the expense for a local SIM card if necessary.</p> <p>- By opting for Remote Access, you are granting RUNI the right to access and utilize the machine's data.</p>					
MAN	Manual in English and Appendices in English		1,00 pcs	0.00		0,00
U0078	<p>The prices are linked to the Euro</p> <p>RUNI reserves the right to adjust the price, should the Euro/USD exchange rate exceed 1.10. This will be done with written notice before order acknowledgements will be sent out.</p>					
602201	Installation, instruction and commissioning		1,00 pcs	4.000.00		4.000,00
	<p>by a RUNI technician.</p>					
602200	Freight charges:		1,00 pcs	0.00		0,00
	<p>Freight is included in equipment price</p>					
0044	<p>Terms of Sales and Delivery: According to Contract 8662</p> <p>TWO (2) YEARS OR 6,000 OPERATIONAL HOURS WHICHEVER OCCURS FIRST.</p> <p>Wear on wearparts - screw, matrix and bearings are not included.</p> <p>The bearings of the compactor need to be greased every 100 working hours with specific grease defined in the user's manual.</p> <p>The system will give you a signal when it is time to grease.</p> <p>The compactor must be placed under roof and in frost free area.</p>					
0045	<p>Payment Terms</p> <p>50% of equipment at time of order</p> <p>Remaining amount - 60 days from installation. But no later than 100 days from arrival</p> <p>The machine remains the property of RUNI until it is paid in full.</p>					
0049	<p>Power supply cable is not included</p> <p>Connection of cable to control box must be done by authorized electrician before installation. By installation it is important to have material for 2-3 hours production.</p> <p>Your service manager and operator (interpreter) must be present during the 3-4 hours of installation.</p> <p>Pallet jack must be available on site, the ground that the machine should be transported over must be suitable for pallet jack operation. If this should lead to problems contact RUNI as soon as possible.</p>					

Invoicing plan			Amount
Partial invoice	1	Pre-payment at order	39.500,00
Partial invoice	2	Invoice on delivery	39.500,00
			79.000,00

Signature Crystal Westbrook Date

Total excl. VAT (USD)	79.000,00
VAT (USD)	0,00
Amount to pay (USD)	79.000,00

Mailing address RUNI Recycling Machinery Inc. 351 Country Club Dr. Bensenville Illinois 60106 USA	Phone: +1-630-422-3172 E-mail: runi-us@runi.dk Website: www.compactor-runi.com	Bank name: Account Routing no. SWIFT
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CONFLICT OF INTEREST QUESTIONNAIRE -

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.

RUNI RECYCLING MACHINERY INC.

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

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

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

Name of Officer

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

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

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

5 Signed by:

Torben Dysager

4/16/2025

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

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

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 16F01B0C-5364-40BE-A7F1-C3679E348179

Status: Sent

Subject: Please DocuSign: City Council Contract 8662 Styrofoam Densifier

Source Envelope:

Document Pages: 35

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Crystal Westbrook

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

crystal.westbrook@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Crystal Westbrook

Location: DocuSign

4/11/2025 2:33:24 PM

crystal.westbrook@cityofdenton.com

Signer Events

Signature

Timestamp

Crystal Westbrook

Completed

Sent: 4/11/2025 2:35:52 PM

crystal.westbrook@cityofdenton.com

Viewed: 4/11/2025 2:36:02 PM

Senior Buyer

Signed: 4/11/2025 2:37:20 PM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell



Sent: 4/11/2025 2:37:23 PM

lori.hewell@cityofdenton.com

Viewed: 4/11/2025 3:14:49 PM

Purchasing Manager

Signed: 4/11/2025 3:15:12 PM

City of Denton

Security Level: Email, Account Authentication (None)

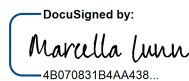
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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn



Sent: 4/11/2025 3:15:14 PM

marcella.lunn@cityofdenton.com

Viewed: 4/11/2025 4:29:17 PM

Senior Deputy City Attorney

Signed: 4/11/2025 4:33:25 PM

City of Denton

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Torben Dysager



Sent: 4/11/2025 4:33:28 PM

td@runi.dk

Resent: 4/15/2025 3:59:41 PM

President

Viewed: 4/16/2025 1:12:51 AM

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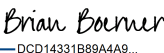
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Electronic Record and Signature Disclosure:

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ID: 633e64ca-71d0-43f8-b788-a558be0d5021

Signer Events	Signature	Timestamp
Brian Boerner brian.boerner@cityofdenton.com Director of Solid Waste SWR Security Level: Email, Account Authentication (None)	<div> <div>Signed by:</div> <div>  <div>DCD14331B89A4A9...</div> </div> </div> <div> Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10 </div>	Sent: 4/16/2025 1:20:40 PM Viewed: 4/16/2025 1:27:45 PM Signed: 4/16/2025 1:28:23 PM
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Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)		Sent: 4/16/2025 1:28:28 PM
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		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 4/11/2025 2:37:22 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 4/16/2025 1:28:28 PM Viewed: 4/17/2025 9:11:55 AM

Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/11/2025 2:35:52 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

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To withdraw your consent with City of Denton

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

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

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: PUB25-067, Version: 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a Professional Services Agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by the City Council on February 23, 2021, in the not-to-exceed amount of \$461,100.00; amended by Amendment 1 approved by City Council; said second amendment to acquire ultimate Right of Way for the Ryan Road Widening Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6590-097 - providing for an additional second amendment expenditure amount not-to-exceed \$614,500.00, with the total contract amount not-to-exceed \$2,313,865.15).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Christine Taylor
DATE: May 5, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a second amendment to a Professional Services Agreement between the City of Denton and Kimley-Horn and Associates, Inc., amending the contract approved by the City Council on February 23, 2021, in the not-to-exceed amount of \$461,100.00; amended by Amendment 1 approved by City Council; said second amendment to acquire ultimate Right of Way for the Ryan Road Widening Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6590-097 – providing for an additional second amendment expenditure amount not-to-exceed \$614,500.00, with the total contract amount not-to-exceed \$2,313,865.15).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

In February 2021, the City Council approved a contract with Kimely-Horn and Associates, Inc. for the 30% design of the Ryan Road Widening Project. The staff has evaluated the 30% project scope of Ryan Road Widening to progress the design from 30% to the final design of full-depth pavement reconstruction and additional utility work. The addition of the utility work includes water and wastewater lines to current areas that do not receive City utility services. In July 2024, the City Council approved the first amendment to provide funding to finish the project's design.

In December 2024, the decision was made to acquire ultimate Right of Way for the Ryan Road widening project in anticipation for future needs.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On February 23, 2021, City Council approved a contract with Kimley-Horn and Associates, Inc., in the not-to-exceed amount of \$461,100 (Ordinance 21-319).

On July 16, 2024, City Council approved Amendment No. 1 with Kimley-Horn and Associates, Inc. in the not-to-exceed amount of \$1,238,265.15, for a total not-to-exceed amount of \$1,699,365.15 (Ordinance 24-1342).

RECOMMENDATION

Award Amendment No. 2 with Kimley-Horn and Associates, Inc., to acquire ultimate Right of Way for the Ryan Road Widening Project for the Capital Projects Department, in a not-to-exceed amount of \$614,500 for a total amended contract amount of \$2,313,865.15.

PRINCIPAL PLACE OF BUSINESS

Kimley-Horn and Associates, Inc.
Raleigh, NC

ESTIMATED SCHEDULE OF PROJECT

Sealed Plans – Q3 2025

Construction Start – Q4 2026 *Dependent on the Hickory Road Phase 3 Project

FISCAL INFORMATION

These services will be funded from the 2019 GO Bond election account 250080473. Purchase Order #195986 will be revised to include the second amendment amount of \$614,500. The total amended amount of this contract is \$2,313,865.15.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Original Ordinance, Contract, Ordinance, and Amendment 1

Exhibit 3: Ordinance and Amendment 2

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

For information concerning this acquisition, contact: Sheldon Gatewood, 940-349-7423.

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

ORDINANCE NO. 21-319

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER, OR HER DESIGNEE, TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., FOR PROFESSIONAL ENGINEERING SERVICES FOR THE RYAN ROAD CORRIDOR IMPROVEMENTS PROJECT FOR THE CAPITAL PROJECTS-ENGINEERING DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 6590-097 – PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES AWARDED TO KIMLEY-HORN AND ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$461,100.00).

WHEREAS, on March 6, 2018 and June 5, 2018, the City Council approved a pre-qualified engineer list (Ordinance 2018-331), and the professional services provider (the “Provider”) mentioned in this ordinance, is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or her designee, is hereby authorized to enter into an agreement with Kimley-Horn and Associates, Inc., to provide professional engineering services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

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

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

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

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

The motion to approve this ordinance was made by John Ryan and seconded by Jesse Davis, the ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Birdia Johnson, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Connie Baker, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John Ryan, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 23rd day of February, 2021.



GERARD HUDSPETH, MAYOR

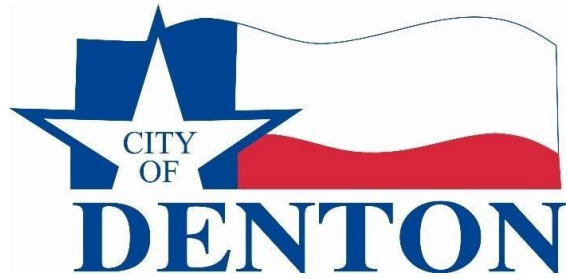
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 
Digitally signed by Marcella Lunn
DN: dc=com, dc=cityofdenton, dc=codad,
ou=Department Users and Groups,
ou=General Government, ou=Legal,
cn=Marcella Lunn,
email=Marcella.Lunn@cityofdenton.com
Date: 2021.02.12 10:37:29 -06'00'



DocuSign City Council Transmittal Coversheet

PSA	6590-097
File Name	Ryan Road Corridor Improvements
Purchasing Contact	Cori Power
City Council Target Date	February 23, 2021
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	21-319

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and **Kimley-Horn and Associates, Inc.**, with its corporate office at 421 Fayetteville Street, Suite 600, Raleigh, NC 27601 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Ryan Road Corridor Improvements (the "PROJECT").

SECTION 1 **Scope of Services**

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

SECTION 2 **Compensation and Term of Agreement**

- A.** The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed \$461,100 in the manner and in accordance with the fee schedule as set forth in Attachment B. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.
- B.** Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment D.

SECTION 3 **Terms of Payment**

Payments to the ENGINEER will be made as follows:

A. Invoice and Payment

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

SECTION 4 Obligations of the Engineer

Amendments to Section 4, if any, are included in Attachment C.

A. General

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

B. Standard of Care

The ENGINEER shall perform its services:

- (1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and

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

C. Subsurface Investigations

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

D. Preparation of Engineering Drawings

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

E. Engineer's Personnel at Construction Site

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

- (2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the PROJECT, when completed, will be in accordance with the AGREEMENT Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.
- (3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the AGREEMENT Documents.

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

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

G. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that

the construction contractor has completed the work in exact accordance with the AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

H. Record Drawings

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

I. Right to Audit

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

J. INSURANCE

(1) ENGINEER'S INSURANCE

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

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

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

(2) GENERAL INSURANCE REQUIREMENTS

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

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

K. Independent Consultant

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

L. Disclosure

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

M. Asbestos or Hazardous Substances

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

N. Permitting Authorities - Design Changes

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

O. Schedule

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

P. Equal Opportunity

- (1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents

shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.

- (2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and ENGINEER's agents shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

SECTION 5

Obligations of the City

Amendments to Section 5, if any, are included in Attachment C.

A. City-Furnished Data

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

B. Access to Facilities and Property

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

C. Advertisements, Permits, and Access

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

D. Timely Review

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

E. Prompt Notice

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

F. Asbestos or Hazardous Substances Release.

- (1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.
- (2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

G. Contractor Indemnification and Claims

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

H. Contractor Claims and Third-Party Beneficiaries

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

"Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."
- (2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.
- (3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.
- (4) Nothing contained in this Section H. shall be construed as a waiver of any right

the CITY has to bring a claim against ENGINEER.

I. CITY's Insurance

- (1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.
- (2) The CITY may secure Builders Risk/Installation insurance at the replacement cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

J. Litigation Assistance

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

K. Changes

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

SECTION 6 **General Legal Provisions**

Amendments to Section 6, if any, are included in Attachment C.

A. Authorization to Proceed

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

B. Reuse of Project Documents

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

C. Force Majeure

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

D. Termination

(1) This AGREEMENT may be terminated:

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

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

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

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

E. Suspension, Delay, or Interruption to Work

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

F. Indemnification

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

G. Assignment

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

H. Jurisdiction

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

I. Severability and Survival

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

J. Observe and Comply

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

K. Immigration Nationality Act

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

L. Prohibition On Contracts With Companies Boycotting Israel

ENGINEER acknowledges that in accordance with Chapter 2270 of the Texas Government Code, CITY is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this AGREEMENT, ENGINEER certifies that ENGINEER'S signature provides written verification to the CITY that ENGINEER: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the AGREEMENT.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

N. 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.

O. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS

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

P. Agreement Documents


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

Attachment A - Scope of Services
 Attachment B - Compensation
 Attachment C - Amendments to Standard Agreement for Engineering Services
 Attachment D - Project Schedule
 Attachment E - Location Map

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

Duly executed by each party's designated representative to be effective on the date subscribed by the City Manager.


BY:
 CITY OF DENTON, TEXAS

DocuSigned by:

 B776C711BA0D454...

Sara Hensley
 City Manager


Date: 2/24/2021

BY:
 ENGINEER
 Kimley-Horn and Associates, Inc.

DocuSigned by:

 EDB15720A1C6421...

Date: 2/11/2021

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

DocuSigned by:

 CF9F2B454B6745F...

Signature

Director of Capital Projects/City Engineer
 Title


Capital Projects - Engineering
 Department

Date Signed: 2/11/2021

2021-716252

TEXAS ETHICS COMMISSION
 CERTIFICATE NUMBER

APPROVED AS TO LEGAL FORM:
 AARON LEAL, CITY ATTORNEY

By: 
 4B070831B4AA438...

ATTEST:
 ROSA RIOS, CITY SECRETARY

By: 
 1C5CA8C5E175493...

ATTACHMENT "A"

RYAN ROAD CORRIDOR IMPROVEMENTS

Scope of Services

PROJECT UNDERSTANDING

The Scope of Services consists of conceptual design (30%) of corridor improvements along Ryan Road from Country Club Road to Teasley Lane. Ryan road will be widened from a two lane section to three lane undivided roadway section. The existing drainage crossings and ditches will be improved. Sidewalk and street lighting improvements will be included.

SCOPE OF SERVICES

The ENGINEER will perform its services pursuant to the requirements delineated with ATTACHMENT "A". Services under this attachment include the following tasks:

- Task 1 – Project Management
- Task 2 – Data Collection
- Task 3 – Conceptual Design (30%)
- Task 4 – Right-of-Way and Easement Documentation

Task 1 Project Management

Task 1.1 Monthly Status Reports, Invoicing, and Team Coordination

The ENGINEER will provide monthly invoices and status reports.

Task 1.2 Design Meetings with City Staff

The ENGINEER will conduct and document up to four (4) design meetings with the CITY and other key stakeholders. A scoping meeting, kickoff Meeting and up to two design coordination meetings. During these meetings, the design team will discuss design elements, challenges, and make decisions regarding design elements for the proposed conceptual design options.

Deliverables:

- Monthly invoices and status reports.
- Meeting agendas and meeting notes

Assumptions:

City of Denton, Texas
Standard Agreement for Engineering Related Design Services
Revised Date: 9/6/18
Page 18 of 25

- It is assumed the project will last 6 months. If the contract duration is longer than 6 months, additional project management will be considered additional services.

Task 2 Data Collection

Task 2.1 Data Collection and Analysis

The ENGINEER will collect data to develop a base map, this information will be utilized to analyze existing constraints and issues for the development of the conceptual design. The following elements will be used to develop the base map.

- 2.1.1 Aerial Photography – The ENGINEER will collect aerial photography for the project corridor from NearMaps and/or available aerial photos from the CITY.
- 2.1.2 Available Record Drawing Research – The ENGINEER will collect any available record drawings from the CITY within the project limits.
- 2.1.3 Available CITY GIS utility information – The ENGINEER will utilize the CITY’s online GIS information to compile utility information for the study area.
- 2.1.4 Field Observation – The ENGINEER will conduct up to one (1) site visit to visually document the existing conditions.
- 2.1.5 Topographic and Boundary Survey collected in Task 2.2.1
- 2.1.6 Subsurface Utility Exploration Level B collected in Task 2.4.1.

Task 2.2 Topographic and Boundary Survey

- 2.2.1 The ENGINEER will prepare a topographic survey and right-of-way determination to be used for civil engineering design purposes. The topographic survey is to be used in-house and will not be issued as a stand-alone survey document.
 - The limits of survey will be approximately 100’ wide from the (up to existing residential fencing) along Ryan Road from Country Club Road to 170’ east of Overlake Drive.
 - The survey will consist of: the location of the right-of-way lines and adjoining property lines with existing easements readily available in the public record (this does not include an abstract of title); elevations; contour lines representing the surface of the existing ground at one foot intervals based on a survey grid system and tied to existing control points; observed (only if clearly visible from the surface) locations of existing water, sewer, storm drain, franchise utility facility appurtenances, trees, shrubs, and flowerbeds; pavement, sidewalk, and other visible corridor improvements, and benchmarks established with the survey.

Task 2.3 Geotechnical Analysis

- 2.3.1 The ENGINEER will utilize a subconsultant to perform geotechnical analysis to determine an asphalt pavement recommendation and soil information for the design of headwalls at up to seven (7) culvert crossing locations.

Task 2.4 Subsurface Utility Engineering (SUE)

2.4.1 Level B Subsurface Utility Exploration

The ENGINEER will, via a sub-consultant, expose certain utilities using SUE methods and collect survey data on their exposed location. This information will be used during civil engineering design. SUE quality level B is described as follows:

- Quality Level B. QL-B involves the application of appropriate surface geophysical methods to determine the existence and horizontal position of virtually all utilities within the project limits. This activity is called "designating". The information obtained in this manner is surveyed to project control. It addresses problems caused by inaccurate utility records, abandoned or unrecorded facilities, and lost references.
- SUE fee is based on an average of 5 underground utilities for roughly 9,700 linear feet. If there are additional utility lines, or we need to obtain more than 9,700 LF for each utility, additional fee may be needed. Additional Level B SUE will be considered additional services.

Task 3 Conceptual Design (30%)

Task 3.1 Conceptual Design (30%)

3.1.1 Conceptual Corridor Improvement Alternatives

- Prepare up to five (5) corridor improvement alternatives for the City's consideration for Ryan Road Corridor.
- Prepare opinion of probable construction cost for each of the alternative.

3.1.2 Roadway Improvements: Upon the City's preferred corridor improvement alternative, the ENGINEER will prepare conceptual roadway plans. The ENGINEER will prepare a schematic design of Ryan Road that will include the following:

- Country Club Road Intersection: The intersection will remain as is.
- Asphalt Widening: Widen Ryan Road from a 2-lane asphalt roadway to a 3 lane-asphalt roadway (2 through lanes and a center two-way left-turn lane) on the south side of the street from Country Club Road to Commodore Court.
- Concrete Widening with Curb and Gutter: Widen Ryan Road between Roxbury Street to east of Overlake Drive to a 3 lane-concrete roadway (approximately 810 linear feet).
- Re-Stripe: The existing concrete section between east of Commodore Court and east of Roxbury Street will be re-striped. (approximately 650 linear feet)
- Teasley Lane Intersection: The concrete section from east of Overlake Drive to Teasley lane as well as the intersection at Teasley Lane will remain as is.

The ENGINEER will not submit plans to TxDOT for review. The ENGINEER will not perform any coordination or meet with TxDOT. Any services associated with TxDOT will be considered additional services.

3.1.3 Drainage Improvements:

- Drainage Area Maps: Existing and proposed condition drainage area maps will be created based on available data from Task 2.
- Drainage ditches: Existing ditches on the south side of Ryan Road will be evaluated to maximize the design year that can be accommodated within the existing right-of-way. Up to two (2) options will be evaluated.
- Culvert crossings: Up to seven (7) existing culvert crossings will be evaluated and downstream assessments performed. Each crossing will be preliminary designed to accommodate the 100-year storm event. If the downstream will experience adverse impacts the ENGINEER will report to the City.
- Internal Storm System: An internal storm system will be designed for the concrete widening with curb and gutter portion of Ryan Road.

3.1.4 Sidewalk: Sidewalk will be proposed to provide a continuous route along the south side of Ryan Road from Country Club Road to Teasley Lane. Existing sidewalk will be utilized where possible. Additional pedestrian crossings will be evaluated at up to three (3) locations.

3.1.5 Illumination: A photometric analysis for will be completed in accordance with City of Denton requirements. The photometric analysis will consist of the following items:

- Modeling site fixtures to meet roadway and intersection illumination level requirements.
- Illuminance calculations in accordance with City of Denton requirements.
- Photometric Analysis Exhibit documenting the findings.

3.1.6 Opinion of Probable Cost (OPCC):

- Based on the OPCC prepared by the ENGINEER, the corridor improvements may be reduced or bid alternatives added in order to fit within the City's budget. The ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided are based on the information known at the time the costs were prepared and represent only the ENGINEER's judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Deliverables: The following deliverables will be submitted via electronic PDF. Up to three (3) full size hard copy versions can be provided at the request of the CITY.

- Conceptual Schematic:

- Existing and proposed typical sections
- Proposed horizontal geometry including: right-of-way, easements, asphalt widening geometry, proposed sidewalk, curb ramps (if necessary), driveways, side streets, pavement markings, illumination poles, ground boxes, and conduits, ditch flowlines, culvert crossing, driveway culverts, internal storm drain pipe, drop inlets, and curb inlets.

- Existing and proposed ground contours at one-foot intervals.
- Existing horizontal geometry including: right-of-way, easements, utilities, roadway pavement, driveways, side streets, storm drain features, and culvert crossings, and proposed ditches.
- Cross Sections:
 - Cross sections will be developed for all areas to be widened at 100-foot increments.
- Existing Drainage Area Maps
- Opinion of Probable Construction Cost (OPCC)

Assumptions: Following the review of the conceptual design (30%) submittal, the ENGINEER will respond to one (1) round of comments for resubmittal.

Task 4 Right-of-Way and Easement Documentation

The ENGINEER will prepare a metes and bounds description and sketch showing the location and dimensions for proposed easements and or right-of-way dedications. Right-of-way dedication and or easement language will either be the unaltered standard language provided by the local jurisdiction, or as agreed to by the Grantor and Grantee and provided complete to the ENGINEER. The CITY will file the documents.

The ENGINEER will prepare up to ten (10) right-of-way or easement documents for the CITY. Additional documents will be considered additional services.

Deliverables: Electronic PDF copies of the right-of-way or easement documents.

ADDITIONAL SERVICES

The following additional services are not anticipated as part of this Scope of Services agreement, however, can be provided if deemed necessary during the project development process. The ENGINEER will not provide the additional services listed below without the written consent and approval of the CITY.

- Additional Meetings.
- TxDOT submittals, reviews, meetings, and permits will be considered additional services.
- Preparing right-of-way or easement documentation.
- Preliminary and Final Design beyond what is listed in the scope of services.
- Bidding and Construction Phase Services.
- The attendance or preparation of materials for Public Meetings.
- Attending or preparing any materials for more than one (1) city council meetings.
- Traffic Control Plan design.
- Modeling or formal submittals to FEMA.
- Storm drain modeling and design beyond what is listed in the scope of services.
- Design of franchise utility relocations.
- Design of CITY utility relocations beyond what is listed in the scope of services.
- Illumination design beyond what is listed in the scope of services.
- Architectural or 3D renderings.
- Preparation of the contractor's SWPPP.
- Services related to warranty claims, enforcement and inspection after final completion;
- Assist the CITY as an expert witness in litigation in connection with the project or in hearings before approving and regulatory agencies;
- Redesign to reflect project scope changes requested by the CITY, required to address changed conditions or change in direction previously approved by the CITY, mandated by changing governmental laws, or necessitated by the CITY's acceptance of substitutions proposed by the contractor; and
- Any services not listed above.

ATTACHMENT "B"

RYAN ROAD CORRIDOR IMPROVEMENTS

Compensation

Total compensation for the ENGINEER contemplated under the terms of this agreement shall be a total not-to-exceed \$461,100 for all services including reimbursable expenses. The CITY shall compensate the ENGINEER as follows:

BASIC SERVICES

For Basic Services Tasks 1-5 the total compensation shall be on a reimbursable (hourly) basis and not to exceed \$461,100.

Progress payments for Basic Services shall be paid monthly based on the actual work satisfactorily completed per month in each phase, with the following amounts of the total compensation for the Basic Services for each phase of the Project:

• Task 1 – Project Management	\$ 10,400
• Task 2 – Data Collection	
○ Task 2.1 – Base Mapping	\$ 18,800
○ Task 2.2 – Topographic Survey	\$ 78,600
○ Task 2.3 – Geotechnical Analysis (Specialty Service)	\$ 28,600
○ Task 2.4 – SUE Level B (Specialty Service)	\$ 97,900
• Task 3 – Conceptual Design (30% Submittal)	\$197,100
• Task 4 – Right-of-Way Documentation	\$ 27,500
• Task 5 – Reimbursable Expenses	\$ 2,200
Total	\$461,100

ENGINEER will not exceed the total maximum labor fee shown without authorization from the CITY. Individual task amounts are provided for budgeting purposes only. ENGINEER reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the CITY.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

EXTRA SERVICES

Any services not specifically provided for in the above scope and authorized by the CITY, will be billed as additional services and performed at our then current hourly rates.

ATTACHMENT “C”
CHANGES AND AMENDMENTS TO STANDARD AGREEMENT
Design Services for
RYAN ROAD CORRIDOR IMPROVEMENTS

No modifications to the Standard Agreement are necessary for this project.

Attachement "D"

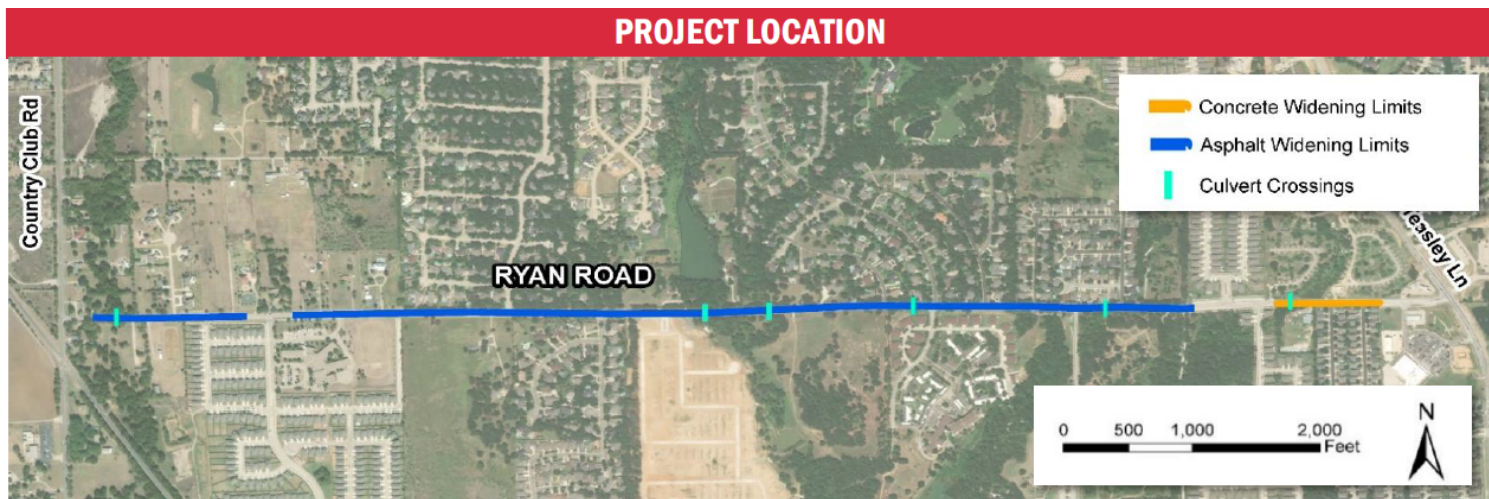
Ryan Road Corridor Improvements
Kimley-Horn and Associates, Inc.

TASK	START
Project Initiation	Feb-21
Council Approval/Notice to Proceed	Feb-21
Conceptual Design (30%)	Mar-21
Survey/Data Collection	Mar-21
Begin Conceptual Design (30%)	Apr-21
Design Review Meeting	May-21
Schematic Roll Plot Submittal	Jun-21
City Review	Jul-21
Address Comments	Jul-21
Final Schematic Submittal	Aug-21

ATTACHMENT “E”

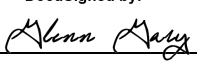
RYAN ROAD CORRIDOR IMPROVEMENTS

Location Map



Extents: Country Club Road to Teasley Lane

Exhibit CIQ

	CONFLICT OF INTEREST QUESTIONNAIRE -	FORM CIQ
	For vendor or other person doing business with local governmental entity	
	This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.	
	<p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	
1	Name of vendor who has a business relationship with local governmental entity. Kimley-Horn and Associates, Inc	
2	<input type="checkbox"/> 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 7 th 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	
	<p>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.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 40px;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>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?</p> <p style="margin-left: 40px;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>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?</p> <p style="margin-left: 40px;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>D. Describe each employment or business and family relationship with the local government officer named in this section.</p>	
4	<input checked="" type="checkbox"/> I have no Conflict of Interest to disclose.	
5	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;"> <p>DocuSigned by:</p>  <p>Signature of Vendor doing business with the governmental entity</p> </div> <div style="width: 45%; text-align: right;"> <p>2/11/2021</p> <p>Date</p> </div> </div>	

Certificate Of Completion


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Document Pages: 29	Signatures: 6
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Cori Power
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	cori.power@cityofdenton.com
	IP Address: 198.49.140.104


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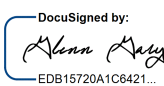
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lori.hewell@cityofdenton.com		Viewed: 2/2/2021 4:15:00 PM
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City of Denton		
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marcella.lunn@cityofdenton.com		Viewed: 2/2/2021 4:35:38 PM
Deputy City Attorney		Signed: 2/2/2021 4:52:45 PM
City of Denton		
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Glenn.Gary@kimley-horn.com		Resent: 2/8/2021 10:57:21 AM
Sr. Vice Presedent		Viewed: 2/2/2021 5:17:42 PM
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Cheyenne Defee
cheyenne.defee@cityofdenton.com
Contract Administrator
City of Denton

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Todd Hileman
Todd.Hileman@cityofdenton.com
City Manager
City of Denton

Security Level: Email, Account Authentication (None)

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Rosa Rios
rosa.rios@cityofdenton.com
City Secretary

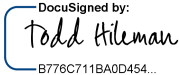
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Carbon Copy Events	Status	Timestamp

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

Electronic Record and Signature Disclosure:

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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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

ORDINANCE NO. 24-1342

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND KIMLEY-HORN AND ASSOCIATES, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON FEBRUARY 23, 2021, IN THE NOT-TO-EXCEED AMOUNT OF \$461,100.00; SAID FIRST AMENDMENT TO PROVIDE DESIGN SERVICES FOR THE RYAN ROAD WIDENING PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 6590-097 - PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$1,238,265.15, FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,699,365.15).

WHEREAS, on February 23, 2021, City Council awarded a contract to Kimley-Horn and Associates, Inc. in the amount of \$461,100.00, for professional engineering services for the Ryan Road Corridor Improvements Project for the Capital Projects Department; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Kimley-Horn and Associates, Inc., which is on file in the office of the Purchasing Agent, in the amount of One Million Two Hundred Thirty-Eight Thousand Two Hundred Sixty-Five and 0/100 (\$1,238,265.15) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to \$1,699,365.15.

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

The motion to approve this ordinance was made by Jill Jester and seconded by Joe Holland. This ordinance was passed and approved by the following vote [6 - 0]:

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

PASSED AND APPROVED this the 16th day of July, 2024.


GERARD HUDSPETH, MAYOR

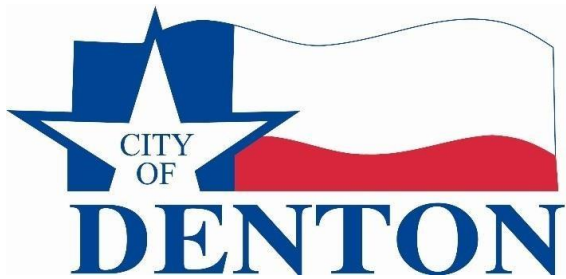
ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Benjamin N. Samples, II





Docusign City Council Transmittal Coversheet

FILE	6590-097
File Name	Ryan Rd Design Amendment 1
Purchasing Contact	Erica Garcia
City Council Target Date	JULY 16, 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-1342

**FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIMLEY-HORN AND ASSOCIATES, INC
PSA 6590-097**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 6590-097 (“Amendment”) by and between the City of Denton, Texas (“City”) and Kimley-Horn and Associates, Inc. (“Engineer”); to that certain contract executed on February 23, 2021, in the original not-to-exceed amount of \$461,100 (the “Agreement”); for services related to Ryan Road Corridor Improvements.

WHEREAS, the City deems it necessary to further expand the services provided by Engineer to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$1,238,265.15 with this Amendment for an aggregate not-to-exceed amount of \$1,699,365.15; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Engineer to the City;

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

1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to Ryan Road Design, are hereby authorized to be performed by Engineer. For and in consideration of the additional services to be performed by Engineer, the City agrees to pay, based on the cost estimate detail attached as Exhibit “A” a total fee, including reimbursement for non-labor expenses an amount not to exceed \$1,238,265.15.
2. This Amendment modifies the Agreement amount to provide an additional \$1,238,265.15 for the additional services with a revised aggregate not to exceed total of \$1,699,365.15.

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

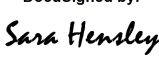
IN WITNESS WHEREOF, the City and the Engineer, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 07/16/2024.

“City”

“Engineer”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

KIMLEY-HORNAND ASSOCIATES,
INC.

By: 
5236DB296270423...
AUTHORIZED SIGNOR, TITLE


By: 
21977EC20AF744A...
Scott R. Arnold
AUTHORIZED SIGNOR, TITLE

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

By: 
4B070831B4AA438...

ATTEST:
LAUREN THODEN, CITY SECRETARY


7B46EEAB11BC4F2...
Trevor Crain, PMP
SIGNATURE PRINTED NAME

Director of Capital Projects
TITLE
Capital Projects
DEPARTMENT

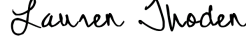
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EXHIBIT A**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT
ADDITIONAL SERVICES****Professional Services Agreement:
RYAN ROAD CORRIDOR IMPROVEMENTS
Amendment Scope of Services**

This is Amendment number 1 dated 07/16/2024 to the agreement between **City of Denton** ("CITY") and Kimley-Horn and Associates, Inc. ("ENGINEER") dated **February 23, 2021** ("the Agreement") concerning **Ryan Road Corridor Improvements** (the "Project").

The ENGINEER has entered into the AGREEMENT with CITY for the furnishing of professional services, and the parties now desire to amend the Agreement.

The AGREEMENT is amended to include services to be performed by ENGINEER for compensation as set forth below in accordance with the terms of the ENGINEER, which are incorporated by reference.

A. Scope of Services

The CITY has requested that the services currently authorized to be performed by the ENGINEER in accordance with the original Agreement be modified. The CITY has requested that the ENGINEER perform additional services consisting of:

- Additional data collection
- Preliminary and final design for roadway, utilities, drainage, and illumination
- Bidding and construction phase services

Task 1 Project Management**Task 1.1 Monthly Status Reports, Invoicing, and Team Coordination**

The ENGINEER will provide monthly invoices and status reports.

Task 1.2 Design Meetings with City Staff

The ENGINEER will conduct and document monthly coordination meetings with the project team and other key stakeholders. During these meetings, the design team will discuss design elements, challenges, and make decisions regarding any proposed design options.

Task 1.3 Permitting

The CITY will be responsible for administration of all permits. The ENGINEER will provide exhibits and information necessary for permit approval. The ENGINEER understands the following permits will be required:

- TxDOT Utility Installation Request (UIR)/RULIS Permit
- Canadian Pacific Kansas City (CPKC) Rail Crossing Permit

EXHIBIT A**Task 1.4 Franchise Utility Coordination**

The ENGINEER will coordinate with franchise utility companies within the project area to obtain existing line maps, determine potential conflicts, and provide conflict information to the CITY for further coordination. The ENGINEER will assist the CITY in review of any franchise utility relocation plans. Up to sixty (60) hours will be spent on franchise utility coordination. Any additional time spent beyond the allotted sixty (60) hours will be considered additional services.

Task 1.5 Eminent Domain Coordination

The ENGINEER will attend and document up to two (2) meetings with CITY staff to aid in eminent domain proceedings.

Deliverables:

- Monthly invoices and status reports.
- Meeting agendas and meeting notes

Assumptions:

- It is assumed Coordination Meetings will be required for twelve (12) months. Additional Coordination Meetings will be considered Additional Services.

Task 2 Data Collection**Task 2.1 Data Collection and Analysis**

The ENGINEER will collect additional data for preliminary and final design. This information will be utilized to analyze existing constraints and issues for the development of the conceptual design. The following elements will be used to develop the base map.

- 2.1.1 Aerial Photography – The ENGINEER will collect aerial photography for the project corridor from NearMaps and/or available aerial photos from the CITY.
- 2.1.2 Available Record Drawing Research – The ENGINEER will collect any available record drawings from the CITY within the project limits.
- 2.1.3 Available CITY GIS utility information – The ENGINEER will utilize the CITY's online GIS information to compile utility information for the study area.
- 2.1.4 Field Observation – The ENGINEER will conduct up to five (5) site visits to visually document the existing conditions with the Contractor.
- 2.1.5 Utility Data Collection – The ENGINEER will meet with the CITY to discuss historical, existing, and future conditions along the project corridor.

Task 2.2 Topographic and Boundary Survey

The ENGINEER will prepare additional topographic survey and right-of-way determination to be used for civil engineering design purposes. The topographic survey is to be used in-house and will not be issued as a stand-alone survey document.

- 2.2.1 The limits of survey will include ten (10) feet beyond existing right-of-way and fifty (50) feet beyond the construction limits for the water line extension area along Country Club Road between Ryan Road and the Denton Classical Academy.
- 2.2.2 The survey will consist of: the location of the right-of-way lines and adjoining property lines with existing easements readily available in the public record (this does not include an abstract of title); elevations; contour lines representing the surface of the existing ground at one foot intervals based on a survey grid system and tied to existing

EXHIBIT A

control points; observed (only if clearly visible from the surface) locations of existing water, sewer, storm drain, franchise utility facility appurtenances, trees, shrubs, and flowerbeds; pavement, sidewalk, and other visible corridor improvements, and benchmarks established with the survey.

Task 2.3 Subsurface Utility Engineering (SUE)

The ENGINEER will, via a sub-consultant, expose additional utilities using SUE methods and collect survey data on their exposed location. This information will be used during civil engineering design. SUE qualities are described as follows:

2.3.1 Level B Subsurface Utility Exploration

- Quality Level B (QL-B) involves the application of appropriate surface geophysical methods to determine the existence and horizontal position of virtually all utilities within the project limits. This activity is called "designating". The information obtained in this manner is surveyed to project control. It addresses problems caused by inaccurate utility records, abandoned or unrecorded facilities, and lost references.
- SUE QL-B fee is based on an average of six (6) underground utilities for approximately 850 linear feet each. If there are additional utility lines, or we need to obtain more than 850 linear feet for each utility, additional fee may be needed. Additional Level B SUE will be considered additional services.

2.3.2 Level A Subsurface Utility Exploration

- Quality Level A (QL-A), also known as "locating", is the highest level of accuracy presently available and involves the full use of subsurface utility engineering services. It provides information for the precise plan and profile mapping of underground utilities through the nondestructive exposure of underground utilities. QL-A provides the type, size, condition, material, and other characteristics of underground features.
- SUE QL-A fee is based on obtaining up to twenty (20) test holes within the project limits. Test hole information will be provided in the construction drawings in a table format. Any additional test holes needed will be considered additional services.

Task 4 Property Acquisition Services**Task 4.1 Right-of-Way and Temporary Construction Easement Documentation**

- 4.1.1 The ENGINEER will prepare a metes and bounds description and sketch showing the location and dimensions for proposed easements. Easement language will either be the unaltered standard language provided by the local jurisdiction, or as agreed to by the Grantor and Grantee and provided complete to the ENGINEER. The CITY will file the documents.

The ENGINEER will prepare up to twenty (20) temporary construction easement or right-of-way documents.

EXHIBIT A**Task 4.2 Property Acquisition Services**

4.2.1 ENGINEER will perform the following services for Easement Acquisition Services:

1. ENGINEER's Real Estate Agent shall provide appraisals for proposed easements on up to twenty (20) parcels for the proposed lines. Appraisals will be approved by the CITY prior to beginning negotiations with property owners. The appraisals will be prepared by State Certified Appraisers in accordance with the Uniform Standards of Professional Appraisal Practice Act (USPAP). The appraisals will be suitable for use in condemnation proceedings, if necessary.
2. Provide property negotiation services for up to twenty (20) parcels for the proposed line as follows:
 - a. The offer to purchase the properties will be based on the appraisals as indicated above. The CITY will establish the value to be used in negotiation and the range of negotiating authority to be given to the right-of-way agent. ENGINEER's Real Estate Agent will provide the services of qualified right-of-way agents to secure the required easements for the project. The right-of-way agents will provide each property owner a copy of The Texas Landowner Bill of Rights, but will NOT be required to provide negotiation services under the Uniform Relocation and Acquisition Act (Uniform Act).
 - b. ENGINEER's Real Estate Agent will negotiate on behalf of the CITY and utilize conveyance documents and other necessary forms as prescribed by the CITY. ENGINEER's Real Estate Agent will provide a good faith effort to acquire the rights-of-way through a negotiation process, which will generally consist of three (3) contacts with the property owner, or their authorized representative. A maximum of five (5) total contacts will be provided to reach an agreement with the property owner, or to determine that further negotiations will be non-productive and that eminent domain actions will be necessary to acquire the property. If absentee owners are involved, the negotiations may be conducted via telephone, fax, or by mail. If the schedule for acquisition of the easement or other factors arise, which make it expedient, travel outside the project area to meet with the absentee owners may be desirable. If such events arise, the travel must be specifically authorized by the CITY. If such travel is authorized, the expenses involved, including the agent's services, will be considered additional services.
 - c. The initial offer made to the property owner will be based on the value authorized by the CITY. All counter-offers by the property owner, along with ENGINEER's Real Estate Agent recommendations will be presented to the City for consideration. The CITY must establish and recommend such counter offers before ENGINEER's Real Estate Agent will be authorized to agree to the requested changes. All monetary offers made to the property owners will be within the limits authorized by the CITY in the various stages of the negotiation.
 - d. After reaching an agreement with the landowner on the consideration and all other terms of the transaction, ENGINEER's Real Estate Agent will forward to the CITY a Memorandum of Agreement (M/A) executed by the property owner to be ratified by the CITY. This M/A sets forth the compensation and any other terms and conditions agreed upon. The CITY will be responsible for obtaining the CITY's ratification and for returning the ratified M/A to ENGINEER's

EXHIBIT A

Real Estate Agent. ENGINEER's Real Estate Agent will then inform the Title Company that the parcel is ready for closing.

3. ENGINEER's Real Estate Agent will coordinate contacts with the CITY to deliver any payments to the Title Company prior to closing.
4. This Scope of Services assumes that costs for Title Commitments, Title Policies and recording fees will be purchased by the CITY through the assistance of the Real Estate Agent. The amount paid for the Title Policies will not exceed premium amounts set by the Texas Department of Insurance and agreed upon in advance between the CITY and the Title Company. Any additional Title Company services such as recording fees shall be agreed upon in advance between the CITY and the Title Company. ENGINEER's Real Estate Agent will review liens or other exceptions reported in the Title Commitment. ENGINEER will coordinate the location and the effect of any utility easements. ENGINEER will report the results of the Title Commitment to the CITY, recommending the disposition of the exceptions. The decision whether the reported exceptions are acceptable or must be eliminated will be the responsibility of the CITY. Any action required to clear title is not included in the Scope of Work for this project, and if required, will be considered Additional Services.
5. ENGINEER's Real Estate Agent will coordinate and attend all closings at the Title Company.
6. ENGINEER's Real Estate Agent will confirm that the Title Company records all documents at the Denton County Courthouse after closing.
7. ENGINEER's Real Estate Agent will confirm that the Title Company forwards copies of all recorded documents to the CITY.

Task 5 Roadway Design

The ENGINEER will prepare construction plans, specifications, and estimates for full depth reconstruction and mill and overlay of Ryan Road per CITY standards.

Task 5.1 Preliminary Design (60%)

- 5.1.1 The ENGINEER will prepare a 22"x34" Preliminary (60%) Plan Set consisting of the following elements:
 - Cover sheet and index of sheets
 - General notes
 - Project control
 - Utility layout
 - Existing and proposed horizontal layout
 - Utility design will be performed under Task 6
 - Roadway typical sections
 - Existing and Proposed
 - Removals
 - Roadway plan and profile drawings at 1"=20' horizontal and 1"=4' vertical scale.
 - Sidewalk and curb ramps
 - Pavement markings and signage
 - Retaining wall plan and profile drawings at 1"=20' horizontal and 1"=4' vertical scale.
 - Cross sections at fifty (50) foot increments

EXHIBIT A

- Traffic control and detour plans
- Construction details
- Summary of quantities
- Specifications and special provisions

5.1.2 Opinion of Probable Cost (OPCC):

Based on the OPCC prepared by the ENGINEER, the corridor improvements maybe reduced or bid alternatives added in order to fit within the CITY's budget. The ENGINEER has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided are based on the information known at the time the costs were prepared and represent only the ENGINEER's judgment as a design professional familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

- 5.1.3 The ENGINEER will conduct a Preliminary Design (30%) review meeting to review and respond to all comments received from the CITY.

Task 5.2 Final Design (90%)

- 5.2.1 The ENGINEER will respond to and address one (1) round of comments provided by the CITY and prepare a 22"x34" Final (90%) Plan Set consisting of the elements in Task 5.1.

- 5.2.2 OPCC

- 5.2.3 The ENGINEER will conduct and document a Final Design (90%) review meeting for each project area to review and respond to all comments received from the project team.

Task 5.3 Final Sealed (100%) Submittal

- 5.3.1 The ENGINEER will respond to and address one (1) round of comments provided by the CITY and prepare a Final Sealed (100%) Plan Set consisting of the elements in Task 5.3.

- 5.3.2 OPCC

Deliverables:

- Digital 22"x34" PDF Plan Set for Preliminary (60%), Final (90%), and Final Sealed (100%) Roadway Design.
 - Up to three (3) 22"x34" hard copies may be submitted at the CITY's request.
- Meeting notes Preliminary (60%) and Final (90%) Roadway Design review meetings.

Task 6 Utility Design

The ENGINEER will prepare construction plans, specifications, and estimates for the construction of water and sanitary sewer line segments identified, including the water line extension along Country Club Road, per CITY standards.

EXHIBIT A

Task 6.1 Water Design

- 6.1.1 The ENGINEER will prepare the following items for the construction plan set:
- Horizontal layouts for water line relocations and necessary appurtenances.
 - Vertical profiles for water line relocations and necessary appurtenances providing the required clearance from all known conflicts.
 - Water line details, including connection details.
 - Sequencing notes for shutdown and connection sequencing plans.
 - Abandonment layouts as needed.
 - Temporary and permanent easements as needed.
 - Design tunnels/bores including casing/tunnel liner plate minimum thickness and inside diameter, shafts, allowable methods, control of ground water, and appropriate tolerances with the chosen method.

Task 6.2 Sanitary Sewer Design

- 6.2.1 The ENGINEER will prepare the following items for the construction plan set:
- Horizontal layouts for sanitary sewer line relocations and necessary appurtenances.
 - Vertical profiles for sanitary sewer line relocations and necessary appurtenances providing the required clearance from all known conflicts.
 - Sanitary sewer line details.
 - Sequencing notes for shutdown and connection sequencing plans.
 - Abandonment layouts as needed.
 - Temporary and permanent easements as needed.
 - Design tunnels/bores including casing/tunnel liner plate minimum thickness and inside diameter, shafts, allowable methods, control of ground water, and appropriate tolerances with the chosen method.

Task 6.3 Preliminary Design (60%)

- 6.3.1 The ENGINEER will prepare a 22"x34" Preliminary (60%) Plan Set consisting of the following elements:
- Abandonment layout
 - Waterline plan and profile drawings at 1"=40' horizontal and 1"=4' vertical scale
 - Sanitary sewer line plan and profile drawings at 1"=40' horizontal and 1"=4' vertical scale
 - Plan view of the base map shall have all above ground features shown and clearly labeled along with existing utilities based on field ties and record information.
 - Plan view shall include design notes for stationing, size, slope, pipe material, embedment, length, and construction method.
 - Profile view shall include design notes for stationing, size, slope, flow-line of pipe, pipe material, embedment, length and construction method.
 - Standard construction details
 - Preliminary water line details, including connection details
 - Summary of quantities
 - Specifications and special provisions

- 6.3.2 OPCC

EXHIBIT A**Task 6.4 Final Design (90%)**

- 6.4.1 The ENGINEER will respond to, and address one (1) round of comments provided by the CITY and prepare a Final Design (90%) Plan Set consisting of the elements in Task 6.3 as well as the following elements:
- Surface repair sheets and details as needed.
- 6.4.2 OPCC

Task 6.5 Final Sealed (100%) Submittal

- 6.5.1 The ENGINEER will respond to and address one (1) round of comments provided by the CITY and prepare a Final Sealed Design (100%) Plan Set consisting of the elements in Task 6.4.
- 6.5.2 OPCC

Deliverables:

- Digital 22"x34" PDF Plan Set for Preliminary (60%), Final (90%), and Final Sealed (100%) Utility Design.
 - Up to three (3) 22"x34" hard copies may be submitted at the CITY's request.

Task 7 Storm Drain Design**Task 7.1 Preliminary Design (60%)**

- 7.1.1 The ENGINEER will prepare the following items for the construction plan set:
- Existing and Proposed Drainage Area Maps
 - Horizontal layout for internal systems, roadside ditches, and culvert crossings
 - Vertical profiles for internal systems, roadside ditches, and culvert crossings
 - Hydraulic calculations for internal systems, roadside ditches, and culvert crossings
 - Headwall construction details
 - Standard construction details
 - Preliminary storm drain details
 - Summary of quantities
 - Specifications and special provisions

Task 7.2 Final Design (90%)

- 7.2.1 The ENGINEER will respond to and address one (1) round of comments provided by the CITY and prepare a Final Design (90%) Plan Set consisting of the elements in Task 7.1.
- 7.2.2 OPCC

Task 7.3 Final Sealed (100%) Submittal

- 7.3.1 The ENGINEER will respond to and address one (1) round of comments provided by the CITY and prepare a Final Sealed Design (100%) Plan Set consisting of the elements in Task 7.2.
- 7.3.2 OPCC

EXHIBIT A**Task 7.4 Flood Study**

- 7.4.1 The ENGINEER will revise the hydrology for Ryan Road culvert crossings prepared as part of the conceptual design. The revisions will be to reflect the final design of the major culvert crossings. The study will include existing, proposed, and fully developed watershed conditions as required by the CITY. Hydrologic parameters will be developed in accordance with CITY criteria.
- 7.4.2 The ENGINEER will revise the hydraulics models to determine the impacts of the proposed culvert crossings. In total there are six (6) culvert crossings, two (2) of which being crossings within FEMA effective floodplains. The ENGINEER will perform iterations to the models and grading plan to mitigate adverse increases in 100-year water surface elevations.
- 7.4.3 The Flood study will be prepared to meet FEMA standards and requirements and CITY requirements. The Flood Study will consist of the following:
- Narrative
 - Drainage Area Maps
 - Peak Flow Comparison Tables
 - HEC-HMS Output
 - Pre/Post-Project Floodplain Maps
 - Water Surface Elevation Comparison Tables
 - HEC-RAS Output
 - Cross-Culvert Plan and Profile Sheets
 - Storm Pipe and Headwall Details
 - FEMA Effective Flows
 - FIS Profile
 - FEMA FIRM
 - Annotated FEMA FIRM
 - Affected Property Owners
 - Digital Files
- 7.4.4 After completion of the culvert crossings within the FEMA effective floodplains, topographic survey will be performed by the Contractor and returned to the CITY. This survey will be used for the purposes of preparing the Letter of Map Revision (LOMR) to submit to FEMA. The ENGINEER will revise the flood study based upon as-built data and submit to FEMA for approval. Permitting Fee for the LOMR requests will be paid for by the CITY. Additional items to be included as part of LOMR Submittal:
- Signed and Sealed Topographic Survey (Provided by Contractor)
 - FEMA Forms
 - As-Built Plans
 - Check RAS

Deliverables:

- Digital 22"x34" PDF Plan Set for Preliminary (60%), Final (90%), and Final Sealed (100%) Roadway Design.
 - Up to three (3) 22"x34" hard copies may be submitted at the CITY's request.
- HEC-HMS and HEC-RAS output files.
- LOMR submitted to FEMA.

EXHIBIT A**Task 8 Illumination Design****Task 8.1 Illumination Design**

The ENGINEER will prepare construction plans, specifications, and estimates for illumination design for Ryan Road and the proposed shared use path per CITY standards.

- 7.1.2 The ENGINEER will gather available as-built information from the CITY including existing lighting infrastructure. As-built information received from the CITY will be visually verified in the field.
- 7.1.3 The ENGINEER will meet on-site with CITY street lighting staff to determine street light circuit configurations. The ENGINEER will also meet on-site with DME to determine service feed options for the proposed street lighting.
- 7.1.4 The ENGINEER will prepare the illumination plans in accordance with CITY guidelines. The following design elements will be included with Task 5 Preliminary (60%), Final (90%), and Final Sealed (100%) deliverables:
 - Existing Conditions and Removals
 - Proposed Illumination Layout
 - Wiring Charts
 - Summary Sheets
 - Electrical Service Panel Schedules

Deliverables:

- Digital 22"x34" PDF Plans for Illumination Design with Preliminary (60%), Final (90%), and Final Sealed (100%) deliverables.

Task 9 Bidding and Construction Services**Task 9.1 Bidding Support**

The ENGINEER will provide the following support for bidding of Ryan Road:

- Pre-Bid Meeting – The ENGINEER will attend one (1) pre-bid meeting.
- Requests for Information - The ENGINEER will respond to reasonable and appropriate Contractor requests for information during bidding in the form of an addenda. Requests for information will be received and responded to until an agreed upon date prior to the established bid opening date. The addenda will be issued to all registered plan holders.
- Bid Opening – The ENGINEER will attend one (1) bid opening meeting.
- Addenda – The ENGINEER will incorporate all addenda into the contract documents and issue conformed sets.

Regular Construction Meetings

The ENGINEER will attend monthly construction meetings with the project team.

EXHIBIT A**Task 9.2 Site Visits**

- 9.2.1 The ENGINEER will conduct one (1) site visit for the entire project limits each month during construction and perform construction observation.
- 9.2.2 The ENGINEER shall not, during such visits or as a result of such observations of the Contractor's work in progress, supervise, direct, or have control of the Contractor's work, nor shall the ENGINEER have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by the Contractor, for safety precautions and programs incident to the Contractor's work, nor for any failure of the Contractor to comply with laws and regulations applicable to the Contractor's furnishing and performing the work. Accordingly, the ENGINEER neither guarantees the performance of any contractor nor assumes responsibility for any of the Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

Task 9.3 Recommendations with Respect to Defective Work

Provide recommendations to the CITY that Contractor's work be disapproved and rejected while it is in progress if, on the basis of site visit evaluations, the ENGINEER believes such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Notwithstanding the foregoing, the CITY reserves the right to disapprove or reject the Contractor's work without a recommendation from the ENGINEER.

Task 9.4 Clarifications and Interpretations

Issue necessary clarifications and interpretations of the Contract Documents to the CITY as appropriate to the orderly completion of the Contractor's work. Such clarifications and interpretations will be consistent with the intent of the Contract Documents. Field orders authorizing variations from the requirements of the Contract Documents will be made by the CITY.

Task 9.5 Change Orders

- 9.5.1 Recommend change orders to the CITY, as appropriate.
- 9.5.2 Review and make recommendations related to Change Orders submitted or proposed by the Contractor.

Task 9.6 Shop Drawings and Samples

Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which the Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs. Assumes up to one hundred (100) shop drawings.

EXHIBIT A**Task 9.7 Substitutes and “or-equal”**

Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by the Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.

Task 9.8 Inspections and Tests

Review certificates of inspections and tests within the ENGINEER’s area of responsibility for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. The ENGINEER will be entitled to rely on the results of such tests and facts being certified. The scope of services assumes the pumps and motors will go through a non-witnessed factory test. Attending testing will be considered additional services.

Task 9.9 Disagreements between City and Contractor

As necessary, the ENGINEER will, with reasonable promptness, render initial written decision on all claims of the CITY and Contractor relating to the acceptability of the Contractor’s work or the interpretation of the requirements of the Contract Documents pertaining to the progress of the Contractor’s work. In rendering such decisions, the ENGINEER will be fair and not show partiality to the CITY or Contractor and will not be liable in connection with any decision rendered in good faith in such capacity. The initial decision of the ENGINEER shall be required as a condition precedent to mediation or litigation of any claim arising prior to the date final payment is due to the Contractor, unless thirty (30) days have passed after a claim has been referred to the ENGINEER with no decision having been rendered.

Task 9.10 Final Walkthrough and Punchlist Preparation

- 9.10.1 Attend final walkthrough with the Contractor and CITY to determine if the completed work of the Contractor is generally in accordance with the Contract Documents.
 - a. Limitation of Responsibilities: The ENGINEER will not be responsible for the acts or omissions of any contractor, suppliers, or of any other individual entity performing or furnishing the work. The ENGINEER will not have the authority or responsibility to stop the work of any contractor.
- 9.10.2 Compile punch list from information gathered during final walkthrough with the CITY and Contractor.

Assumptions:

- It is assumed the construction phase will be for twenty-four (24) months. Additional Construction Phase Services will be considered Additional Services.

Task 10 Record Drawings**Task 10.1 Record Drawings**

- 10.1.1 Obtain and review comments and field changes on the construction plans from the CITY and contractor.
- 10.1.2 Prepare record drawings based on comments and field changes. The ENGINEER will not be providing resident engineering services and will not be observing on a full-time

EXHIBIT A

basis and will therefore not seal the record drawings. The record drawings will be provided as digital 22"x34" PDF.

Compensation

The additional services described above will be accommodated by increasing the contract amount by \$1,238,265.15. The CITY shall compensate the ENGINEER as follows:

Lump Sum

The ENGINEER will perform the services in Tasks 2 and 5-7 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the CITY.

Task	Original Contract	Remaining	Amendment No. 1	Revised Contract	Revised Remaining
Task 2 – Data Collection					
2.1 – Base Mapping	\$18,800.00	\$17,482.03	\$3,417.97	\$22,217.97	\$20,900.00
2.2 – Topographic Survey	\$78,600.00	\$6,300.46	\$(3,500.46)	\$75,099.54	\$2,800.00
2.4.1 – SUE (Level B)	\$97,900.00	-	\$62,300.00	\$160,200.00	\$62,300.00
Task 5 – Roadway Design	-	-	\$274,900.00	\$274,900.00	\$274,900.00
Task 6 – Utility Design	-	-	\$207,100.00	\$207,100.00	\$207,100.00
Task 7 – Drainage Design	-	-	\$278,000.00	\$278,000.00	\$278,000.00
Totals:	\$195,300.00	\$23,782.49	\$822,217.51	\$1,017,517.51	\$846,000.00

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Individual task amounts are provided for budgeting purposes only. The ENGINEER reserves the right to reallocate amounts among tasks as necessary.

Hourly Not to Exceed

The ENGINEER will perform the services in Tasks 1-4, and 8-11 on a labor fee plus expense basis with the maximum labor fee shown below.

The ENGINEER will not exceed the total maximum labor fee shown without authorization from the CITY. Individual task amounts are provided for budgeting purposes only. The ENGINEER reserves the right to reallocate amounts among tasks as necessary. Labor fee will be billed on an hourly basis according to our then-current rates.

EXHIBIT A


Task	Original Contract	Remaining	Amendment No. 1	Revised Contract	Revised Remaining
Task 1 – Project Management	\$10,400.00	\$2,392.51	\$62,307.49	\$72,707.49	\$64,700.00
Task 2 – Data Collection					
2.3 – Geotechnical Analysis	\$28,600.00	\$6,462.50	\$27,637.50	\$56,237.50	\$34,100.00
2.4.2 – SUE (Level A)	-	-	\$41,800.00	\$41,800.00	\$41,800.00
Task 3 – Conceptual Design (30% Submittal)	\$197,100.00	\$50,997.35	\$(50,997.35)	\$146,102.65	-
Task 4 – Right-of-Way Documentation	\$27,500.00	\$27,500.00	\$170,500.00	\$198,000.00	\$198,000.00
Task 8 – Illumination Design	-	-	\$60,500.00	\$60,500.00	\$60,500.00
Task 9 – Construction Phase Services	-	-	\$89,900.00	\$89,900.00	\$89,900.00
Task 10 – Record Drawings	-	-	\$14,400.00	\$14,400.00	\$14,400.00
Task 11 – Reimbursable Expenses	\$2,200.00	\$1,998.78	-	\$2,200.00	\$1,998.78
Totals:	\$265,800.00	\$89,351.14	\$416,047.64	\$681,847.64	\$505,398.78

As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the CITY.

Payment will be due within 30 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Duly executed by each party's designated representative to be effective on the date subscribed by the CITY.


BY:
CITY OF DENTON, TEXAS

DocuSigned by:

5236DB296270423...

Title: City Manager

Date: 07/16/2024

BY:
ENGINEER
Kimley-Horn and Associates, Inc

DocuSigned by:

21977EC20AF744A...

Title: Scott Arnold, Vice President

Date: 07/16/2024

Certificate Of Completion

Envelope Id: C73C553B4DDF41BE974CD697F3C921D3
 Subject: Please DocuSign: City Council Contract 6590-097
 Source Envelope:
 Document Pages: 17
 Certificate Pages: 6
 AutoNav: Enabled
 Envelope Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Completed

Envelope Originator:
 Erica Garcia
 901B Texas Street
 Denton, TX 76209
 erica.garcia@cityofdenton.com
 IP Address: 198.49.140.104

Record Tracking

Status: Original
 6/6/2024 6:44:42 AM

Holder: Erica Garcia
 erica.garcia@cityofdenton.com

Location: DocuSign

Signer Events

Erica Garcia
 erica.garcia@cityofdenton.com
 Senior Buyer
 City of Denton
 Security Level: Email, Account Authentication
 (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

Scott Arnold
 Scott.arnold@kimley-horn.com
 Scott R. Arnold
 Security Level: Email, Account Authentication
 (None)

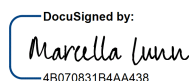
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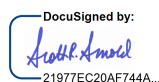
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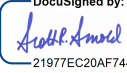
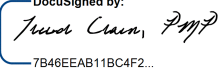

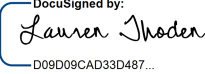
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Signer Events	Signature	Timestamp
<p>Scott Arnold</p> <p>Scott.arnold@kimley-horn.com</p> <p>Scott R. Arnold</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>21977EC20AF744A...</p> <p>Signature Adoption: Uploaded Signature Image</p> <p>Using IP Address: 130.41.212.55</p>	<p>Sent: 6/7/2024 8:36:50 AM</p> <p>Viewed: 6/7/2024 9:58:43 AM</p> <p>Signed: 6/7/2024 9:58:50 AM</p>
<p>Electronic Record and Signature Disclosure:</p> <p>Accepted: 6/7/2024 9:58:43 AM</p> <p>ID: e642d710-dbd5-406a-a3d4-bf8a15e750d7</p>		
<p>Trevor Crain, PMP</p> <p>Trevor.Crain@cityofdenton.com</p> <p>Director of Capital Projects</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>7B46EEAB11BC4F2...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 6/6/2024 1:15:22 PM</p> <p>Viewed: 6/6/2024 1:39:32 PM</p> <p>Signed: 6/7/2024 8:41:21 AM</p>
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<p>Cheyenne Defee</p> <p>cheyenne.defee@cityofdenton.com</p> <p>Procurement Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>Completed</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 6/7/2024 9:58:54 AM</p> <p>Viewed: 7/17/2024 9:08:12 AM</p> <p>Signed: 7/17/2024 9:08:46 AM</p>
<p>Electronic Record and Signature Disclosure:</p> <p>Not Offered via DocuSign</p>		
<p>Sara Hensley</p> <p>sara.hensley@cityofdenton.com</p> <p>City Manager</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>5236DB296270423...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 47.190.47.120</p> <p>Signed using mobile</p>	<p>Sent: 7/17/2024 9:08:49 AM</p> <p>Viewed: 7/17/2024 9:37:16 AM</p> <p>Signed: 7/17/2024 9:37:23 AM</p>
<p>Electronic Record and Signature Disclosure:</p> <p>Not Offered via DocuSign</p>		
<p>Lauren Thoden</p> <p>lauren.thoden@cityofdenton.com</p> <p>City Secretary</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>D09D09CAD33D487...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 7/17/2024 9:37:27 AM</p> <p>Viewed: 7/17/2024 11:09:33 AM</p> <p>Signed: 7/17/2024 11:10:09 AM</p>
<p>Electronic Record and Signature Disclosure:</p> <p>Not Offered via DocuSign</p>		

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Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/6/2024 6:51:01 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/7/2024 9:58:53 AM Viewed: 6/13/2024 2:46:58 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 7/17/2024 11:10:12 AM
Dustin Draper dustin.draper@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 6/7/2024 1:23:55 PM ID: 135454af-a37f-4459-b46d-8425184d7d63	COPIED	Sent: 7/17/2024 11:10:13 AM
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Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A SECOND AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND KIMLEY-HORN AND ASSOCIATES, INC., AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON FEBRUARY 23, 2021, IN THE NOT-TO-EXCEED AMOUNT OF \$461,100.00; AMENDED BY AMENDMENT 1 APPROVED BY CITY COUNCIL; SAID SECOND AMENDMENT TO ACQUIRE ULTIMATE RIGHT OF WAY FOR THE RYAN ROAD WIDENING PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 6590-097 – PROVIDING FOR AN ADDITIONAL SECOND AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$614,500.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$2,313,865.15).

WHEREAS, on February 23, 2021, awarded a contract to Kimley-Horn and Associates, Inc. in the amount of \$461,100.00, for professional engineering services for the Ryan Road Corridor Improvements Project for the Capital Projects-Engineering Department; and

WHEREAS, on July 16, 2024, City Council awarded a First Amendment to Kimley-Horn and Associates, Inc. in the amount of \$1,238,265.15, to provide design services for the Ryan Road Widening Project for the Capital Projects Department; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Second Amendment, increasing the amount of the contract between the City and Kimley-Horn and Associates, Inc., which is on file in the office of the Purchasing Agent, in the amount of Six Hundred Fourteen Thousand Five Hundred and 0/100 (\$614,500.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to \$2,313,865.15.

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

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

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

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

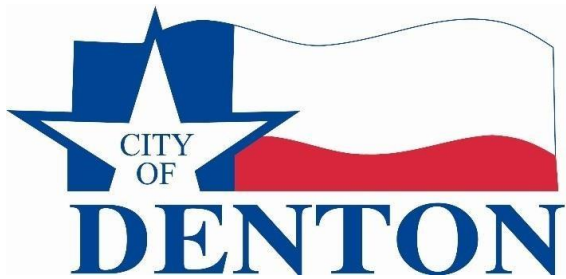
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



Docusign City Council Transmittal Coversheet

FILE	6590-0997
File Name	Ryan Rd Design Amendment 2
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**SECOND AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND KIMLEY-HORN AND ASSOCIATES, INC.
PSA 6590-097**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS SECOND AMENDMENT TO CONTRACT 6590-097 (“Amendment”) by and between the City of Denton, Texas (“City”) and Kimley-Horn and Associates, Inc. (“Engineer”); to that certain contract executed on February 23, 2021, in the original not-to-exceed amount of \$461,100 (the “Original Agreement”); amended on July 16, 2024 in the additional amount of \$1,238,265.15 aggregating a not-to-exceed amount of \$1,699,365.15 (the “First Amendment”); (collectively, the Original Agreement, and the First Amendment, are the “Agreement”) for services related to Ryan Road Corridor Improvements.

WHEREAS, the City deems it necessary to further expand the services provided by Engineer to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$614,500 with this Amendment for an aggregate not-to-exceed amount of \$2,313,865.15; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Engineer to the City;

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

1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the Ryan Road Corridor Improvements, are hereby authorized to be performed by Engineer. For and in consideration of the additional services to be performed by Engineer, the City agrees to pay, based on the cost estimate detail attached as Exhibit “A”, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$614,500.
2. This Amendment modifies the Agreement amount to provide an additional \$614,500 for the additional services with a revised aggregate not to exceed total of \$2,313,865.15.

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


IN WITNESS WHEREOF, the City and the Engineer, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date _____.

“Engineer”

KIMLEY-HORN AND ASSOCIATES,
INC.

By:  DocuSigned by: D1B5A80061EF4E9... Vice President
AUTHORIZED SIGNATURE, TITLE

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By:  DocuSigned by: 4B070831B4AA438...

“CITY”

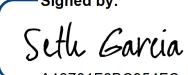
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

ATTEST:
LAUREN THODEN, CITY SECRETARY

By: _____

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

 Signed by: A13701F6BC954FC... Seth Garcia
SIGNATURE PRINTED NAME
Interim Director of Capital Projects
TITLE
Capital Projects
DEPARTMENT

AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT ADDITIONAL SERVICES

Professional Services Agreement: **RYAN ROAD CORRIDOR IMPROVEMENTS** **Amendment Scope of Services**

This is Amendment number 2 dated March 19, 2025 to the agreement between **City of Denton** ("CITY") and Kimley-Horn and Associates, Inc. ("ENGINEER") dated **February 24, 2021** ("the Agreement") concerning **Ryan Road Corridor Improvements** (the "Project").

The ENGINEER has entered into the AGREEMENT with CITY for the furnishing of professional services, and the parties now desire to amend the Agreement.

The AGREEMENT is amended to include services to be performed by ENGINEER for compensation as set forth below in accordance with the terms of the ENGINEER, which are incorporated by reference.

A. Scope of Services

The CITY has requested that the services currently authorized to be performed by the ENGINEER in accordance with the original Agreement be modified. The CITY has requested that the ENGINEER perform additional services consisting of:

- Property Acquisition Services

Task 4 Property Acquisition Services

Task 4.1 Right-of-Way and Temporary Construction Easement Documentation

- 4.1.1 The ENGINEER will prepare a metes and bounds description and sketch showing the location and dimensions for proposed easements. Easement language will either be the unaltered standard language provided by the local jurisdiction, or as agreed to by the Grantor and Grantee and provided complete to the ENGINEER. The CITY will file the documents.

The ENGINEER will prepare up to fifty-one (51) temporary construction easement or right-of-way documents.

Task 4.2 Property Acquisition Services

- 4.2.1 ENGINEER will perform the following services for Easement Acquisition Services:
1. ENGINEER's Real Estate Agent shall provide appraisals for proposed easements on up to sixty (60) parcels for the proposed dedication lines. Appraisals will be approved by the CITY prior to beginning negotiations with property owners. The appraisals will be prepared by State Certified Appraisers in accordance with the Uniform Standards of Professional Appraisal Practice Act (USPAP). The appraisals will be suitable for use in condemnation proceedings, if necessary.
 2. Provide property negotiation services for up to sixty (60) parcels for the proposed dedication lines as follows:

EXHIBIT A

- a. The offer to purchase the properties will be based on the appraisals as indicated above. The CITY will establish the value to be used in negotiation and the range of negotiating authority to be given to the right-of-way agent. ENGINEER's Real Estate Agent will provide the services of qualified right-of-way agents to secure the required easements for the project. The right-of-way agents will provide each property owner a copy of The Texas Landowner Bill of Rights, but will NOT be required to provide negotiation services under the Uniform Relocation and Acquisition Act (Uniform Act).
 - b. ENGINEER's Real Estate Agent will negotiate on behalf of the CITY and utilize conveyance documents and other necessary forms as prescribed by the CITY. ENGINEER's Real Estate Agent will provide a good faith effort to acquire the rights-of-way through a negotiation process, which will generally consist of three (3) contacts with the property owner, or their authorized representative. A maximum of five (5) total contacts will be provided to reach an agreement with the property owner, or to determine that further negotiations will be non-productive and that eminent domain actions will be necessary to acquire the property. If absentee owners are involved, the negotiations may be conducted via telephone, fax, or by mail. If the schedule for acquisition of the easement or other factors arise, which make it expedient, travel outside the project area to meet with the absentee owners may be desirable. If such events arise, the travel must be specifically authorized by the CITY. If such travel is authorized, the expenses involved, including the agent's services, will be considered additional services.
 - c. The initial offer made to the property owner will be based on the value authorized by the CITY. All counter-offers by the property owner, along with ENGINEER's Real Estate Agent recommendations will be presented to the City for consideration. The CITY must establish and recommend such counter offers before ENGINEER's Real Estate Agent will be authorized to agree to the requested changes. All monetary offers made to the property owners will be within the limits authorized by the CITY in the various stages of the negotiation.
 - d. After reaching an agreement with the landowner on the consideration and all other terms of the transaction, ENGINEER's Real Estate Agent will forward to the CITY a Memorandum of Agreement (M/A) executed by the property owner to be ratified by the CITY. This M/A sets forth the compensation and any other terms and conditions agreed upon. The CITY will be responsible for obtaining the CITY's ratification and for returning the ratified M/A to ENGINEER's Real Estate Agent. ENGINEER's Real Estate Agent will then inform the Title Company that the parcel is ready for closing.
3. ENGINEER's Real Estate Agent will coordinate contacts with the CITY to deliver any payments to the Title Company prior to closing.
 4. This Scope of Services assumes that costs for Title Commitments, Title Policies and recording fees will be purchased by the CITY through the assistance of the Real Estate Agent. The amount paid for the Title Policies will not exceed premium amounts set by the Texas Department of Insurance and agreed upon in advance between the CITY and the Title Company. Any additional Title Company services such as recording fees shall be agreed upon in advance between the CITY and the Title Company. ENGINEER's Real Estate Agent will review liens or other exceptions reported in the Title Commitment. ENGINEER will

EXHIBIT A

coordinate the location and the effect of any utility easements. ENGINEER will report the results of the Title Commitment to the CITY, recommending the disposition of the exceptions. The decision whether the reported exceptions are acceptable or must be eliminated will be the responsibility of the CITY. Any action required to clear title is not included in the Scope of Work for this project, and if required, will be considered Additional Services.

5. ENGINEER's Real Estate Agent will coordinate and attend all closings at the Title Company.
6. ENGINEER's Real Estate Agent will confirm that the Title Company records all documents at the Denton County Courthouse after closing.
7. ENGINEER's Real Estate Agent will confirm that the Title Company forwards copies of all recorded documents to the CITY.

Compensation

The additional services described above will be accommodated by increasing the contract amount by \$614,500.00. The CITY shall compensate the ENGINEER as follows:

Lump Sum

The ENGINEER will perform the services in Tasks 2 and 5-7 for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the CITY.

Task	Amendment No. 1 Contract	Amendment No. 2	Revised Contract
Task 2 – Data Collection			
2.1 – Base Mapping	\$22,217.97	-	\$22,217.97
2.2 – Topographic Survey	\$75,099.54	-	\$75,099.54
2.4.1 – SUE (Level B)	\$160,200.00	-	\$160,200.00
Task 5 – Roadway Design	\$274,900.00	-	\$274,900.00
Task 6 – Utility Design	\$207,100.00	-	\$207,100.00
Task 7 – Drainage Design	\$278,000.00	-	\$278,000.00
Totals:	\$1,017,517.51	-	\$1,017,517.51

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Individual task amounts are provided for budgeting purposes only. The ENGINEER reserves the right to reallocate amounts among tasks as necessary.

Hourly Not to Exceed

The ENGINEER will perform the services in Tasks 1-4, and 8-11 on a labor fee plus expense basis with the maximum labor fee shown below.

The ENGINEER will not exceed the total maximum labor fee shown without authorization from the CITY. Individual task amounts are provided for budgeting purposes only. The ENGINEER

EXHIBIT A

reserves the right to reallocate amounts among tasks as necessary. Labor fee will be billed on an hourly basis according to our then-current rates.

Task	Amendment No. 1 Contract	Amendment No. 2	Revised Contract
Task 1 – Project Management	\$72,707.49	-	\$72,707.49
Task 2 – Data Collection		-	
2.3 – Geotechnical Analysis	\$56,237.50	-	\$56,237.50
2.4.2 – SUE (Level A)	\$41,800.00	-	\$41,800.00
Task 3 – Conceptual Design (30% Submittal)	\$146,102.65	-	\$146,102.65
Task 4 – Property Acquisition Services	\$198,000.00	\$614,500.00	\$812,500.00
Task 8 – Illumination Design	\$60,500.00	-	\$60,500.00
Task 9 – Construction Phase Services	\$89,900.00	-	\$89,900.00
Task 10 – Record Drawings	\$14,400.00	-	\$14,400.00
Task 11 – Reimbursable Expenses	\$2,200.00	-	\$2,200.00
Totals:	\$681,847.64	\$614,500.00	\$1,296,347.64

As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the CITY.

Payment will be due within 30 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Duly executed by each party's designated representative to be effective on the date subscribed by the CITY.

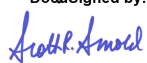
BY:
CITY OF DENTON, TEXAS

Title: _____

Date: _____

BY:
ENGINEER
Kimley-Horn and Associates, Inc

DocuSigned by:



D1B5A80061EE4E9...

Title: Scott Arnold, Vice President

Date: _____

Amendment No. 2
Ryan Road Corridor Improvements

March 19, 2025

Certificate Of Completion

Envelope Id: D2830CFD-CD9E-43D1-A75D-F893D20438D0

Status: Sent

Subject: Please DocuSign: City Council Contract 6590-097 Ryan Road Design Amendment 2

Source Envelope:

Document Pages: 7

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

erica.garcia@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

4/4/2025 9:26:38 AM

erica.garcia@cityofdenton.com

Signer Events

Signature

Timestamp

Erica Garcia

Completed

Sent: 4/4/2025 9:33:00 AM

erica.garcia@cityofdenton.com

Viewed: 4/4/2025 9:34:12 AM

Senior Buyer

Signed: 4/4/2025 9:34:35 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 4/4/2025 9:34:36 AM

lori.hewell@cityofdenton.com

Viewed: 4/4/2025 11:22:06 AM

Purchasing Manager

Signed: 4/4/2025 11:22:36 AM

City of Denton

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
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Sent: 4/4/2025 11:22:38 AM

marcella.lunn@cityofdenton.com

Viewed: 4/4/2025 4:44:26 PM

Senior Deputy City Attorney

Signed: 4/4/2025 4:46:02 PM

City of Denton

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Scott Arnold

DocuSigned by:
Scott Arnold
D1B5A80061EE4E9...

Sent: 4/4/2025 4:46:04 PM

Scott.arnold@kimley-horn.com

Viewed: 4/4/2025 5:02:45 PM

Vice President

Signed: 4/4/2025 5:03:15 PM

Kimley-Horn and Associates, Inc.

Security Level: Email, Account Authentication
(None)

Signature Adoption: Uploaded Signature Image


Using IP Address: 108.147.171.29

Signed using mobile

Electronic Record and Signature Disclosure:

Accepted: 3/27/2020 10:55:11 AM

ID: a1f38400-e5cc-4b57-8548-4dd7e031355d

Signer Events	Signature	Timestamp
<p>Seth Garcia</p> <p>seth.garcia@cityofdenton.com</p> <p>Interim Director of Capital Projects</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>Signed by:</p>  <p>A13701F6BC954FC...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 107.77.199.25</p> <p>Signed using mobile</p>	<p>Sent: 4/4/2025 5:03:17 PM</p> <p>Viewed: 4/4/2025 5:08:23 PM</p> <p>Signed: 4/4/2025 5:08:55 PM</p>

Electronic Record and Signature Disclosure:
Accepted: 4/4/2025 5:08:23 PM
ID: 7811dc15-08c6-4bef-a2a4-b1caf2591e12

<p>Cheyenne Defee</p> <p>cheyenne.defee@cityofdenton.com</p> <p>Procurement Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	Sent: 4/4/2025 5:08:58 PM
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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

Lauren Thoden

lauren.thoden@cityofdenton.com

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

<p>Cheyenne Defee</p> <p>cheyenne.defee@cityofdenton.com</p> <p>Procurement Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<div>COPIED</div>	<p>Sent: 4/4/2025 9:34:37 AM</p>
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

<p>Gretna Jones</p> <p>gretna.jones@cityofdenton.com</p> <p>Legal Secretary</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<div>COPIED</div>	<p>Sent: 4/4/2025 5:08:57 PM</p> <p>Viewed: 4/7/2025 11:12:21 AM</p>
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Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Sheldon Gatewood sheldon.gatewood@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 4/4/2025 10:57:57 AM ID: ca2b4584-4139-4260-b1d6-a57e96976be2		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/4/2025 9:33:00 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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

Acknowledging your access and consent to receive materials electronically

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

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

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



City of Denton

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

Legislation Text

File #: PUB25-066, **Version:** 1

AGENDA CAPTION

Consider approval of the April 28, 2025, minutes.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
April 28, 2025

After determining that a quorum was present of the Public Utilities Board of the City of Denton, convened in a Regular Meeting on Monday, April 28, 2025, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback

Also present: General Manager Antonio Puente, Jr. and Deputy City Attorney Marcella Lunn

Absent: Susan Parker, Aaron Newquist

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

There were no presentations from the public.

2. CONSENT AGENDA

The Consent Agenda consisted of Item 2 A.

Board Member Rayner moved to recommend adoption of agenda item 2 A. Motion seconded by Board Member Riback; motion carried.

YES (5): Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback,

NO (0):

- A. PUB25-060** Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Credit Systems International, Inc., for unpaid utilities and miscellaneous account collection services owed by customers for various City of Denton departments for the Customer Service Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8746 - awarded to Credit Systems International, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$545,050.00).

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. PUB25-062** Consider approval of April 14, 2025, minutes.

Board Member Taylor moved to recommend adoption of agenda items 3A. Motion seconded by Board Member Rayner; motion carried.

YES (5): Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback

NO (0):

- B. PUB25-061** Management Reports

1. February Recycling Contamination Rate
2. Robinwood Reconstruction Inquiry
3. Future Agenda Items
4. New Business Action Items

5. CONCLUDING ITEMS

With no further business, the meeting was adjourned at 9:03 AM.

BILLY CHEEK
CHAIR
CITY OF DENTON, TEXAS

CASSIE BLACKBURN
ADMIN MANAGER
CITY OF DENTON, TEXAS

Minutes approved on: 5/5/2025



City of Denton

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

Legislation Text

File #: PUB25-039, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$46,535,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Finance

ACM: Christine Taylor

DATE: May 5, 2025

SUBJECT

Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$46,535,000 in principal amount of Certificates of Obligation of the City of Denton for General Government and Solid Waste projects; and providing an effective date.

BACKGROUND

The Board's review of this item includes consideration of only Solid Waste capital projects.

This ordinance provides the Notice of Intention (NOI) to issue \$11,125,711 of Certificates of Obligation (CO) of the City of Denton for Solid Waste projects, as required by state law. The notice will be published once a week for two consecutive weeks in the Denton Record Chronicle, with the date of the first publication to be at least forty-six (46) days before the date tentatively set for the passage of the ordinance authorizing the issuance of the bonds. The notice will also be posted on the City's website.

Staff recommends the sale of \$11,125,711 in COs for Solid Waste. Below is a listing of recommended Solid Waste CO funded projects for FY 2024-25 CIP.

	<u>Reimbursement Ordinance</u>	<u>Notice of Intent</u>
Concrete Replacement	\$ 350,000	\$ 350,000
Scalehouse	640,000	640,000
Fleet Shop at Solid Waste	2,200,000	2,200,000
Cell 5 & 6 Construction	4,000,000	4,000,000
Vehicles - New Additions	285,711	285,711
Vehicles - Replacements	3,650,000	3,650,000
Solid Waste Total	\$ 11,125,711	\$ 11,125,711

The City sells bonds in accordance with the useful life of the asset that is being acquired. For example, vehicles are typically sold with bonds that will be paid within five years. For the FY 2024-25 proposed debt issuance for Solid Waste COs: \$3,935,711 will be 5-year debt, and \$7,190,000 will be 20-year debt.

Concurrently with the sale of COs for Solid Waste, the City anticipates the sale of approximately \$34,988,270 in General Government COs and \$43,507,000 in General Obligation Bonds (GO) to fund the 2019 and 2023 Bond Programs and approximately \$205,645,901 in COs for Water, Wastewater and Electric.

If approved by the City Council, staff will proceed with the publication of the Notice of Intention and will schedule the Bond Ordinance consideration and adoption for July 15, 2025. The bond ordinance will dictate the parameters of the bond sale. Under such an arrangement, staff will be permitted to execute the bond sale within six (6) months of July 15, 2025, provided certain interest rate parameters are met.

RECOMMENDATION

Staff recommends adoption of the ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On October 15, 2024, the City Council adopted a reimbursement ordinance (Ord. No. 24-1662) authorizing the reimbursement of capital program expenditures of \$74,010,000 in GO and \$307,839,583 in CO funded projects for General Government, Solid Waste, Electric, Water and Wastewater.

FISCAL INFORMATION

The ordinance is for the authorization to publish the Notice of Intention to sell \$46,535,000 of Certificates of Obligation for General Government and Solid Waste projects. A notice is only required for Certificates of Obligation.

EXHIBITS

1. Agenda Information Sheet
2. Ordinance
3. Presentation

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance

Prepared by:
Randee Klingele
Treasury Manager

ORDINANCE NO. 25-____

AN ORDINANCE DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO ISSUE \$46,535,000 IN PRINCIPAL AMOUNT OF CERTIFICATES OF OBLIGATION OF THE CITY OF DENTON FOR GENERAL GOVERNMENT AND SOLID WASTE PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is deemed necessary and advisable that the Notice of Intention to Issue Certificates of Obligation be given as hereinafter provided; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. That attached hereto is a form of "NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION OF THE CITY OF DENTON", the form and substance of which are hereby adopted and approved, and made a part of this Ordinance for all purposes.

SECTION 2. That the City Secretary shall cause said NOTICE, in substantially the form attached hereto, to be published once a week for two consecutive weeks in a newspaper of general circulation in the City, with the date of the first publication to be at least forty-six (46) days before the date tentatively set for the passage of the Ordinance authorizing the issuance of such Certificates of Obligation. And further that the City Secretary shall cause said NOTICE, in substantially the form attached hereto, to be posted continuously on the City's Internet website for at least 45 days before the date tentatively set for the passage of the Ordinance authorizing the issuance of the Certificates of Obligation.

SECTION 3. That for purposes of Texas Local Government Code, Subchapter C of Chapter 271, as amended, the City has currently designated \$796,315,000 in principal amount of the following \$1,263,865,000 of outstanding debt obligations as self-supporting debt, provided that such designated amount may be changed from time to time:

- Certificates of Obligation, Series 2014
- General Obligation Refunding and Improvement Bonds, Series 2014
- Certificates of Obligation, Series 2015
- General Obligation Refunding and Improvement Bonds, Series 2015
- General Obligation Refunding Bonds, Series 2015
- Certificates of Obligation, Series 2016
- General Obligation Refunding and Improvement Bonds, Series 2016
- General Obligation Refunding Bonds, Series 2016
- Certificates of Obligation, Series 2017
- General Obligation Refunding and Improvement Bonds, Series 2017
- Certificates of Obligation, Series 2018
- General Obligation Bonds, Series 2018

- Certificates of Obligation, Series 2018A
- Certificates of Obligation, Series 2019
- General Obligation Refunding and Improvement Bonds, Series 2019
- Certificates of Obligation, Series 2020
- General Obligation Refunding and Improvement Bonds, Series 2020
- General Obligation Refunding Bonds, Series 2020A
- Certificates of Obligation, Series 2021
- General Obligation Bonds, Series 2021
- Certificates of Obligation, Series 2022
- General Obligation Refunding and Improvement Bonds, Series 2022
- Certificates of Obligation, Series 2023
- General Obligation Refunding and Improvement Bonds, Series 2023
- Certificates of Obligation, Series 2024
- General Obligation Refunding and Improvement Bonds, Series 2024
- Extendable Commercial Paper Notes, Series A

SECTION 4. That this Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the rules and regulations of the United States Department of the Treasury.

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

PASSED AND APPROVED this the 20th day of May, 2025.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

THE STATE OF TEXAS :

COUNTY OF DENTON :

CITY OF DENTON :

NOTICE OF INTENTION
TO ISSUE CERTIFICATES OF OBLIGATION
OF THE CITY OF DENTON
(GENERAL GOVERNMENT AND SOLID WASTE PROJECTS)

THE CITY OF DENTON, in Denton County, Texas, hereby gives notice of its intention to issue CITY OF DENTON CERTIFICATES OF OBLIGATION, in accordance with the Certificate of Obligation Act of 1971, as amended and codified, and other applicable laws, in the maximum principal amount of \$46,535,000 for the purpose of paying all or a portion of the City's contractual obligations incurred pursuant to contracts for the purchase, construction and acquisition of certain real and personal property, to wit: (a) acquisition of vehicles and equipment for the fire, police, building inspections, community improvement services, animal services, streets and traffic control, facilities management, airport, technology services, fleet management, warehouse management, and parks and recreation departments; (b) renovations to, and equipping of, existing municipal buildings, including the acquisition and installation of replacement heating, venting and air conditioning equipment, roofing and flooring; (c) acquiring, constructing and installing building security systems, including security system technology equipment and software, for municipal buildings; (d) constructing, reconstructing, renovating, installing and equipping municipal parks; (e) acquisition and installation of technology equipment, including radio equipment, computer equipment and software, for various municipal departments; (f) constructing and improving streets, including traffic signalization, landscaping, drainage, sidewalks, utility line relocations and the acquisition of land and rights-of-way therefor; (g) acquisition of equipment for, and acquiring, constructing, installing and equipping additions, extensions, renovations and improvements to, the City's drainage and storm sewer systems; (h) acquisition of vehicles and equipment for, and acquiring, constructing, installing and equipping additions, extensions, renovations and improvements to, the City's solid waste disposal system; and (i) renovations to existing public safety facility for the police department; and also for the purpose of paying all or a portion of the City's contractual obligations for professional services, including engineers, architects, attorneys, map makers, auditors, and financial advisors, in connection with said projects and said Certificates of Obligation. The City proposes to provide for the payment of such Certificates of Obligation from the levy and collection of ad valorem taxes in the City as provided by law, and from certain surplus revenues (not to exceed \$1,000 in aggregate amount) derived by the City from the ownership and operation of the City's Utility System (consisting of the City's combined waterworks system, wastewater system and electric light and power system). The City Council of the City tentatively proposes to authorize the issuance of such Certificates of Obligation, in one or more series, at a meeting commencing at 6:30 p.m. on July 15, 2025, in the City Council room at the Municipal Building (City Hall), 215 E. McKinney, Denton, Texas. In the event the City Council will be unable to meet at the Municipal Building (City Hall) on July 15, 2025, the City will post on its website, www.cityofdenton.com, information for persons to attend the meeting by telephone, teleconference or other electronic means.

The maximum interest rate for such Certificates of Obligation will not exceed the maximum legal interest rate, the maximum maturity date for such Certificates of Obligation is February 15, 2055, and the estimated combined principal and interest required to pay such Certificates of Obligation to be authorized on time and in full is \$65,006,402.

The City has separately provided notice of its intention to also issue additional Certificates of Obligation in the maximum principal amount of \$207,515,000 for water system, wastewater system and electric system projects (the "Utility System Certificates of Obligation"). The maximum interest rate for the Utility System Certificates of Obligation will not exceed the maximum legal interest rate, the maximum maturity date for the Utility System Certificates of Obligation is February 15, 2055, and the estimated combined principal and interest required to pay the Utility System Certificates of Obligation to be authorized on time and in full is \$330,971,621.

The City currently has outstanding debt obligations secured by and payable from ad valorem taxes (not including \$796,315,000 principal amount of outstanding debt obligations the City has designated as self-supporting debt) equal to \$467,550,000 in principal amount and \$636,200,888 in combined principal and interest required to pay such outstanding debt obligations on time and in full. The City reasonably expects to pay self-supporting debt obligations from revenue sources other than ad valorem taxes, provided, however, that in the event such self-supporting revenue sources are insufficient to pay debt service, the City is obligated to levy ad valorem taxes to pay such debt obligations. Ordinance No. 25-___ designating certain outstanding debt obligations of the City as self-supporting for purposes of Texas Local Government Code, Subchapter C of Chapter 271 is available upon request to the City at the address noted above.

CITY OF DENTON, TEXAS

By: Lauren Thoden, City Secretary



Public Utilities Board Notice of Intentions



Purpose of Notice of Intention

- State Law requires the publication of a Notice of Intent to issue Certificates of Obligation (COs). *(Texas Local Government Code, Chapter 271, Subchapter C – Certificate of Obligation Act)*
- The notice must be published in a newspaper of general circulation in the City (Denton Record Chronicle) and on the City's website.
- Publication must be once a week for two consecutive weeks.
- Passage of Bond Ordinance authorizing the sale of COs must be at least 46 days after the date of the first publication.

Solid Waste Projects

	Reimbursement Ordinance	Notice of Intent
Concrete Replacement	\$ 350,000	\$ 350,000
Scalehouse	640,000	640,000
Fleet Shop at Solid Waste	2,200,000	2,200,000
Cell 5 & 6 Construction	4,000,000	4,000,000
Vehicles - New Additions	285,711	285,711
Vehicles - Replacements	3,650,000	3,650,000
Solid Waste Total	\$ 11,125,711	\$ 11,125,711

Utility Projects – Water 1 of 3

	Reimbursement Ordinance	Notice of Intent
AMI/AMR Replacements	\$ 4,590,000	\$ 2,000,000
Annual Field Service Replacements	1,050,000	1,050,000
Bonnie Brae (Phase 3)	459,000	900,000
Bonnie Brae (Phase 5)	344,250	675,000
Bonnie Brae (Phase 6)	51,000	100,000
Clear Creek Slope Maintenance	1,000,000	1,000,000
Elm and Locust (Phase 2)	1,530,000	3,000,000
VFDs at LLRWPS and the LLWTP HSPS	250,000	250,000
Fallmeadow Street Water Main	500,000	500,000
Fire Hydrant Installs	61,493	61,493
Lake Lewisville Filter Media Replacement	1,020,000	-
Lake Lewisville Raw Water Station Rehab	1,020,000	2,000,000
Lakey Street Water Main	500,000	500,000
Large Valve Replacements	127,500	-

Utility Projects – Water 2 of 3

	Reimbursement Ordinance	Notice of Intent
LCR (Lead and Copper Rule) Compliance	1,000,000	1,000,000
LCR (Lead and Copper Rule) Remediation	500,000	500,000
LLWTP DME Pond Infill	1,020,000	-
LLWTP LAS Bulk Storage Capacity Redesign	255,000	-
LLWTP Raw Water Transmission Line	500,000	500,000
LLWTP Sludge Dewatering Improvement Project	1,932,900	1,000,000
McKenna Park BPS Rehab & Fence Replacement	500,000	500,000
Oversize Participation Agreements	5,360,000	5,360,000
Ray Roberts Ozone Generator PLC Upgrades	459,000	900,000
RRWTP Capacity Rerate and Upgrades	14,892,000	29,200,000
RRWTP Disinfection Conv. and Chemical Impvs.	3,187,500	6,250,000
RRWTP Emergency Generator ATS Upgrade	510,000	1,000,000
RRWTP Fiber Installation	382,500	750,000
RRWTP Raw Electric Assessment	127,500	-

Utility Projects – Water 3 of 3

	Reimbursement Ordinance	Notice of Intent
RRWTP Line Cleaning for Zebra Mussels	153,000	-
Sampling Station Upgrades	200,000	200,000
SCADA/HMI Upgrade Water	637,500	1,000,000
Service Center Renovation	1,530,000	3,000,000
Supplement to Bond Election 2019 Projects	7,140,000	14,000,000
Tank Painting	102,000	200,000
Transmission Line Condition Assessment	1,000,000	1,000,000
Transmission Line Condition Repairs	1,000,000	200,000
Distributor Replacement Program	1,241,139	-
Water Meters	900,000	900,000
Water Production Tank Mixing Options Eval.	250,000	250,000
Water Taps	308,122	308,122
West Allred Transmission Line	1,020,000	-
Westgate Road and Drainage	285,600	560,000
Water Total	\$ 58,897,004	\$ 80,614,615

Utility Projects – Wastewater 1 of 2

	Reimbursement Ordinance	Notice of Intent
12/15-inch Robson Ranch Interceptor	\$ 500,000	\$ 500,000
21/27/30-inch Roark Branch Interceptor Ph. 2	2,500,000	2,500,000
Annual Field Service Replacements	1,050,000	500,000
Bonnie Brae PH 3-6 Wastewater Upgrades	1,020,000	2,000,000
Collector Replacement Program	2,276,552	-
Cooper Creek Lift Station Improvement Project	331,500	650,000
Emergency Equipment Storage Building	400,000	-
Fallmeadow Street Water Main	500,000	500,000
Granada Lift Station Replacement	1,122,000	500,000
Hickory Creek Interceptor IV	3,570,000	1,000,000
Hickory Creek Water Reclamation Plant Ph 1	100,000	100,000
Hobson Lift Station Electrical Upgrade	632,400	500,000
Lakey Street Water Main	500,000	500,000
Legends Sewer Line	510,000	-
Lift Station Replacement	500,000	500,000

Utility Projects – Wastewater 2 of 2

	Reimbursement Ordinance	Notice of Intent
Manhole Repair/Replace/Lining	150,000	150,000
Milam Creek Basin Wastewater Line and LS	12,182,880	23,888,000
Mingo/Ruddell/Quiet Zone Sewer Upgrades	510,000	1,000,000
Oversize Participation	13,040,000	13,040,000
PCWRP Expansion Headworks	4,794,000	9,400,000
PCWRP Utility Power Switch Replacement	250,000	-
Pipe/Force Main Condition Assessment	551,250	-
Robson Ranch Project Phase I & II	1,785,000	-
Robson West Lift Station	2,244,000	1,000,000
SCADA/HMI Upgrade Water Rec	1,250,000	1,000,000
Supplement to Bond Election 2019 Projects	13,000,000	13,000,000
Vehicle Replacement	903,286	903,286
Water Reclamations Grinder	1,500,000	-
Service Center Renovation	4,000,000	4,000,000
Wastewater Total	\$ 71,672,868	\$ 77,131,286

Utility Projects - Electric

	Reimbursement Ordinance	Notice of Intent
Automated Meter Reading	\$ 1,238,730	\$ 1,850,000
Land & Building Construction	2,500,000	3,900,000
Distribution Substations	6,550,000	5,054,394
Distribution Transformers	7,000,000	-
Feeder Extensions & Improvements	15,886,000	9,000,000
New Residential & Commercial	9,205,000	2,000,000
Power Factor Improvement	600,000	150,000
Street Lighting	800,000	176,330
Transmission Lines	6,400,000	625,000
Transmission Substations	8,350,000	10,160,000
Production Plant	6,358,000	6,358,000
Technology	4,090,000	7,626,276
Electric Relocations	6,000,000	1,000,000
Electric Total	\$ 74,977,730	\$ 47,900,000

Total CO Notice of Intentions

Solid Waste	\$ 11,125,711
<hr/>	
Total General Government	
Water	\$ 80,614,615
Wastewater	77,131,286
Electric	47,900,000
Issuance Cost & Pricing Flexibility*	1,869,099
<hr/>	
Total Utility System	\$ 207,515,000

*Shared with GO Bond Sale

Next Steps

- **May 20, 2025**
 - Council considers approval of NOI ordinances.
- **June 23, 2025**
 - PUB considers approval of bond ordinance authorizing the sale of Certificates of Obligation.
- **July 15, 2025**
 - Council considers approval of bond ordinances authorizing the sale of both General Obligation bonds and Certificates of Obligation.
- **July 23, 2025**
 - Preliminary date of sale if market conditions are favorable.
- **August 26, 2025**
 - Preliminary date of close and delivery of funds.

Questions





City of Denton

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

Legislation Text

File #: PUB25-040, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$207,515,000 in principal amount of Certificates of Obligation of the City of Denton for Waterworks and Wastewater System and Electric System projects; and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Finance

ACM: Christine Taylor

DATE: May 5, 2025

SUBJECT

Consider recommending adoption of an ordinance directing the publication of Notice of Intention to issue \$207,515,000 in principal amount of Certificates of Obligation of the City of Denton for Waterworks and Wastewater System and Electric System projects; and providing an effective date.

BACKGROUND

This ordinance provides the Notice of Intention (NOI) to issue \$207,515,000 of Certificates of Obligation (CO) of the City of Denton for Water, Wastewater and Electric System projects, as required by state law. The notice will be published once a week for two consecutive weeks in the Denton Record Chronicle, with the date of the first publication to be at least forty-six (46) days before the date tentatively set for the passage of the ordinance authorizing the issuance of the bonds. The notice will also be posted on the City's website. The additional \$1.8 million is for issuance costs and to allow flexibility in marketing and pricing the bond sale. Issuance costs are shared between the General Government (GO) and CO Bond Sale.

Staff recommends the sale of \$207,515,000 in COs for Water, Wastewater and Electric System. Changes to material pricing and project requirements for large projects were compared to the initial 2024 scopes and pricing in developing the NOI project list. The increase in Water and Wastewater is associated with the timing of the Environmental Protection Agency WIFIA program funding. An overall review of Electric's capital projects resulted in a reduction of NOI project dollars.

Below is a listing of recommended Water, Wastewater and Electric System CO funded projects for FY 2024-25.

<u>Water Projects</u>	<u>Reimbursement Ordinance</u>	<u>Notice of Intent</u>
AMI/AMR Replacements	\$ 4,590,000	\$ 2,000,000
Annual Field Service Replacements	1,050,000	1,050,000
Bonnie Brae (Phase 3)	459,000	900,000
Bonnie Brae (Phase 5)	344,250	675,000
Bonnie Brae (Phase 6)	51,000	100,000
Clear Creek Slope Maintenance	1,000,000	1,000,000
Elm and Locust (Phase 2)	1,530,000	3,000,000
VFDs at LLRWPS and the LLWTP HSPS	250,000	250,000
Fallmeadow Street Water Main	500,000	500,000
Fire Hydrant Installs	61,493	61,493
Lake Lewisville Filter Media Replacement	1,020,000	-
Lake Lewisville Raw Water Station Rehab	1,020,000	2,000,000
Lakey Street Water Main	500,000	500,000
Large Valve Replacements	127,500	-

LCR (Lead and Copper Rule) Compliance	1,000,000	1,000,000
LCR (Lead and Copper Rule) Remediation	500,000	500,000
LLWTP DME Pond Infill	1,020,000	-
LLWTP LAS Bulk Storage Capacity Redesign	255,000	-
LLWTP Raw Water Transmission Line	500,000	500,000
LLWTP Sludge Dewatering Improvement Project	1,932,900	1,000,000
McKenna Park BPS Rehab & Fence Replacement	500,000	500,000
Oversize Participation Agreements	5,360,000	5,360,000
Ray Roberts Ozone Generator PLC Upgrades	459,000	900,000
RRWTP Capacity Rerate and Upgrades	14,892,000	29,200,000
RRWTP Disinfection Conv. and Chemical Impvs.	3,187,500	6,250,000
RRWTP Emergency Generator ATS Upgrade	510,000	1,000,000
RRWTP Fiber Installation	382,500	750,000
RRWTP Raw Electric Assessment	127,500	-
RRWTP Line Cleaning for Zebra Mussels	153,000	-
Sampling Station Upgrades	200,000	200,000
SCADA/HMI Upgrade Water	637,500	1,000,000
Service Center Renovation	1,530,000	3,000,000
Supplement to Bond Election 2019 Projects	7,140,000	14,000,000
Tank Painting	102,000	200,000
Transmission Line Condition Assessment	1,000,000	1,000,000
Transmission Line Condition Repairs	1,000,000	200,000
Distributor Replacement Program	1,241,139	-
Water Meters	900,000	900,000
Water Production Tank Mixing Options Eval.	250,000	250,000
Water Taps	308,122	308,122
West Allred Transmission Line	1,020,000	-
Westgate Road and Drainage	285,600	560,000
Water Total	\$ 58,897,004	\$ 80,614,615

Wastewater Projects

Reimbursement Ordinance

Notice of Intent

		\$
12/15-inch Robson Ranch Interceptor	\$ 500,000	500,000
21/27/30-inch Roark Branch Interceptor Ph. 2	2,500,000	2,500,000
Annual Field Service Replacements	1,050,000	500,000
Bonnie Brae PH 3-6 Wastewater Upgrades	1,020,000	2,000,000
Collector Replacement Program	2,276,552	-
Cooper Creek Lift Station Improvement Project	331,500	650,000
Emergency Equipment Storage Building	400,000	-
Fallmeadow Street Water Main	500,000	500,000
Granada Lift Station Replacement	1,122,000	500,000
Hickory Creek Interceptor IV	3,570,000	1,000,000
Hickory Creek Water Reclamation Plant Ph 1	100,000	100,000
Hobson Lift Station Electrical Upgrade	632,400	500,000
Lakey Street Water Main	500,000	500,000
Legends Sewer Line	510,000	-
Lift Station Replacement	500,000	500,000
Manhole Repair/Replace/Lining	150,000	150,000
Milam Creek Basin Wastewater Line and LS	12,182,880	23,888,000

Mingo/Ruddell/Quiet Zone Sewer Upgrades	510,000	1,000,000
Oversize Participation	13,040,000	13,040,000
PCWRP Expansion Headworks	4,794,000	9,400,000
PCWRP Utility Power Switch Replacement	250,000	-
Pipe/Force Main Condition Assessment	551,250	-
Robson Ranch Project Phase I & II	1,785,000	-
Robson West Lift Station	2,244,000	1,000,000
SCADA/HMI Upgrade Water Rec	1,250,000	1,000,000
Supplement to Bond Election 2019 Projects	13,000,000	13,000,000
Vehicle Replacement	903,286	903,286
Water Reclamations Grinder	1,500,000	-
Service Center Renovation	4,000,000	4,000,000
Wastewater Total	\$ 71,672,868	\$ 77,131,286

<u>Electric Projects</u>	<u>Reimbursement Ordinance</u>	<u>Notice of Intent</u>
Automated Meter Reading	\$ 1,238,730	\$ 1,850,000
Land & Building Construction	2,500,000	3,900,000
Distribution Substations	6,550,000	5,054,394
Distribution Transformers	7,000,000	-
Feeder Extensions & Improvements	15,886,000	9,000,000
New Residential & Commercial	9,205,000	2,000,000
Power Factor Improvement	600,000	150,000
Street Lighting	800,000	176,330
Transmission Lines	6,400,000	625,000
Transmission Substations	8,350,000	10,160,000
Production Plant	6,358,000	6,358,000
Technology	4,090,000	7,626,276
Electric Relocations	6,000,000	1,000,000
Electric Total	\$ 74,977,730	\$ 47,900,000

Total CO's for Water, Wastewater, and Electric **\$ 205,645,901**

The City sells bonds in accordance with the useful life of the asset that is being acquired. For example, vehicles are typically sold with bonds that will be paid within five years. For the FY 2024-25 proposed debt issuance for Water, Wastewater and Electric System COs: \$7,626,276 will be 5-year debt, \$157,745,901 will be 20-year debt, and \$40,273,724 will be 30-year debt.

If approved by the City Council, staff will proceed with the publication of the Notice of Intention and will schedule the Bond Ordinance consideration and adoption for July 15, 2025. The bond ordinance will dictate the parameters of the bond sale. Under such an arrangement, staff will be permitted to execute the bond sale within six (6) months of July 15, 2025, provided certain interest rate parameters are met.

RECOMMENDATION

Staff recommends adoption of the ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On October 15, 2024, the City Council adopted reimbursement ordinance (Ord. 24-1662) authorizing the reimbursement of capital program expenditures of \$74,010,000 in GO and \$307,839,583 in CO funded projects for General Government, Solid Waste, Electric, Water and Wastewater.

FISCAL INFORMATION

The ordinance is for the authorization to publish the Notice of Intention to sell \$207,515,000 of Certificates of Obligation for Water, Wastewater and Electric System projects. A notice is only required for Certificates of Obligation.

EXHIBITS

1. Agenda Information Sheet
2. Ordinance
3. Presentation

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance

Prepared by:
Randee Klingele
Treasury Manager

ORDINANCE NO. 25-__

AN ORDINANCE DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO ISSUE \$207,515,000 IN PRINCIPAL AMOUNT OF CERTIFICATES OF OBLIGATION OF THE CITY OF DENTON FOR WATERWORKS AND WASTEWATER SYSTEM AND ELECTRIC SYSTEM PROJECTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is deemed necessary and advisable that the Notice of Intention to Issue Certificates of Obligation be given as hereinafter provided; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. That attached hereto is a form of "NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION OF THE CITY OF DENTON", the form and substance of which are hereby adopted and approved, and made a part of this Ordinance for all purposes.

SECTION 2. That the City Secretary shall cause said NOTICE, in substantially the form attached hereto, to be published once a week for two consecutive weeks in a newspaper of general circulation in the City, with the date of the first publication to be at least forty-six (46) days before the date tentatively set for the passage of the Ordinance authorizing the issuance of such Certificates of Obligation. And further that the City Secretary shall cause said NOTICE, in substantially the form attached hereto, to be posted continuously on the City's Internet website for at least 45 days before the date tentatively set for the passage of the Ordinance authorizing the issuance of the Certificates of Obligation.

SECTION 3. That this Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the rules and regulations of the United States Department of the Treasury.

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

PASSED AND APPROVED this the 20th day of May, 2025.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

THE STATE OF TEXAS :

COUNTY OF DENTON :

CITY OF DENTON :

NOTICE OF INTENTION
TO ISSUE CERTIFICATES OF OBLIGATION
OF THE CITY OF DENTON
(WATERWORKS AND WASTEWATER SYSTEM AND ELECTRIC SYSTEM PROJECTS)

THE CITY OF DENTON, in Denton County, Texas, hereby gives notice of its intention to issue CITY OF DENTON CERTIFICATES OF OBLIGATION, in accordance with the Certificate of Obligation Act of 1971, as amended and codified, and other applicable laws, in the maximum principal amount of \$207,515,000 for the purpose of paying all or a portion of the City's contractual obligations incurred pursuant to contracts for the purchase, construction and acquisition of certain real and personal property, to wit: (a) acquisition of equipment for, and acquiring, constructing, installing and equipping additions, extensions, renovations and improvements to, the City's waterworks and wastewater system; and (b) acquisition of equipment for, and acquiring, constructing, installing and equipping additions, extensions, renovations and improvements to, the City's electric light and power system; and also for the purpose of paying all or a portion of the City's contractual obligations for professional services, including engineers, architects, attorneys, map makers, auditors, and financial advisors, in connection with said projects and said Certificates of Obligation. The City proposes to provide for the payment of such Certificates of Obligation from the levy and collection of ad valorem taxes in the City as provided by law, and from certain surplus revenues (not to exceed \$1,000 in aggregate amount) derived by the City from the ownership and operation of the City's Utility System (consisting of the City's combined waterworks system, wastewater system and electric light and power system). The City Council of the City tentatively proposes to authorize the issuance of such Certificates of Obligation, in one or more series, at a meeting commencing at 6:30 p.m. on July 15, 2025, in the City Council room at the Municipal Building (City Hall), 215 E. McKinney, Denton, Texas. In the event the City Council will be unable to meet at the Municipal Building (City Hall) on July 15, 2025, the City will post on its website, www.cityofdenton.com, information for persons to attend the meeting by telephone, teleconference or other electronic means.

The maximum interest rate for such Certificates of Obligation will not exceed the maximum legal interest rate, the maximum maturity date for such Certificates of Obligation is February 15, 2055, and the estimated combined principal and interest required to pay such Certificates of Obligation to be authorized on time and in full is \$330,971,621.

The City has separately provided notice of its intention to also issue additional Certificates of Obligation in the maximum principal amount of \$46,535,000 for general government and solid waste disposal system projects (the "General Government & Solid Waste Certificates of Obligation"). The maximum interest rate for the General Government & Solid Waste Certificates of Obligation will not exceed the maximum legal interest rate, the maximum maturity date for the General Government & Solid Waste Certificates of Obligation is February 15, 2055, and the estimated combined principal and interest required to pay the General Government & Solid Waste Certificates of Obligation to be authorized on time and in full is \$65,006,402.

The City currently has outstanding debt obligations secured by and payable from ad valorem taxes (not including \$796,315,000 principal amount of outstanding debt obligations the City has designated as self-supporting debt) equal to \$467,550,000 in principal amount and \$636,200,888 in combined principal and interest required to pay such outstanding debt obligations on time and in full. The City reasonably expects to pay self-supporting debt obligations from revenue sources other than ad valorem taxes, provided, however, that in the event such self-supporting revenue sources are insufficient to pay debt service, the City is obligated to levy ad valorem taxes to pay such debt obligations. Ordinance No. 25-___ designating certain outstanding debt obligations of the City as self-supporting for purposes of Texas Local Government Code, Subchapter C of Chapter 271 is available upon request to the City at the address noted above.

CITY OF DENTON, TEXAS

By: Lauren Thoden, City Secretary



Public Utilities Board Notice of Intentions



Purpose of Notice of Intention

- State Law requires the publication of a Notice of Intent to issue Certificates of Obligation (COs). *(Texas Local Government Code, Chapter 271, Subchapter C – Certificate of Obligation Act)*
- The notice must be published in a newspaper of general circulation in the City (Denton Record Chronicle) and on the City's website.
- Publication must be once a week for two consecutive weeks.
- Passage of Bond Ordinance authorizing the sale of COs must be at least 46 days after the date of the first publication.

Solid Waste Projects

	Reimbursement Ordinance	Notice of Intent
Concrete Replacement	\$ 350,000	\$ 350,000
Scalehouse	640,000	640,000
Fleet Shop at Solid Waste	2,200,000	2,200,000
Cell 5 & 6 Construction	4,000,000	4,000,000
Vehicles - New Additions	285,711	285,711
Vehicles - Replacements	3,650,000	3,650,000
Solid Waste Total	\$ 11,125,711	\$ 11,125,711

Utility Projects – Water 1 of 3

	Reimbursement Ordinance	Notice of Intent
AMI/AMR Replacements	\$ 4,590,000	\$ 2,000,000
Annual Field Service Replacements	1,050,000	1,050,000
Bonnie Brae (Phase 3)	459,000	900,000
Bonnie Brae (Phase 5)	344,250	675,000
Bonnie Brae (Phase 6)	51,000	100,000
Clear Creek Slope Maintenance	1,000,000	1,000,000
Elm and Locust (Phase 2)	1,530,000	3,000,000
VFDs at LLRWPS and the LLWTP HSPS	250,000	250,000
Fallmeadow Street Water Main	500,000	500,000
Fire Hydrant Installs	61,493	61,493
Lake Lewisville Filter Media Replacement	1,020,000	-
Lake Lewisville Raw Water Station Rehab	1,020,000	2,000,000
Lakey Street Water Main	500,000	500,000
Large Valve Replacements	127,500	-

Utility Projects – Water 2 of 3

	Reimbursement Ordinance	Notice of Intent
LCR (Lead and Copper Rule) Compliance	1,000,000	1,000,000
LCR (Lead and Copper Rule) Remediation	500,000	500,000
LLWTP DME Pond Infill	1,020,000	-
LLWTP LAS Bulk Storage Capacity Redesign	255,000	-
LLWTP Raw Water Transmission Line	500,000	500,000
LLWTP Sludge Dewatering Improvement Project	1,932,900	1,000,000
McKenna Park BPS Rehab & Fence Replacement	500,000	500,000
Oversize Participation Agreements	5,360,000	5,360,000
Ray Roberts Ozone Generator PLC Upgrades	459,000	900,000
RRWTP Capacity Rerate and Upgrades	14,892,000	29,200,000
RRWTP Disinfection Conv. and Chemical Impvs.	3,187,500	6,250,000
RRWTP Emergency Generator ATS Upgrade	510,000	1,000,000
RRWTP Fiber Installation	382,500	750,000
RRWTP Raw Electric Assessment	127,500	-

Utility Projects – Water 3 of 3

	Reimbursement Ordinance	Notice of Intent
RRWTP Line Cleaning for Zebra Mussels	153,000	-
Sampling Station Upgrades	200,000	200,000
SCADA/HMI Upgrade Water	637,500	1,000,000
Service Center Renovation	1,530,000	3,000,000
Supplement to Bond Election 2019 Projects	7,140,000	14,000,000
Tank Painting	102,000	200,000
Transmission Line Condition Assessment	1,000,000	1,000,000
Transmission Line Condition Repairs	1,000,000	200,000
Distributor Replacement Program	1,241,139	-
Water Meters	900,000	900,000
Water Production Tank Mixing Options Eval.	250,000	250,000
Water Taps	308,122	308,122
West Allred Transmission Line	1,020,000	-
Westgate Road and Drainage	285,600	560,000
Water Total	\$ 58,897,004	\$ 80,614,615

Utility Projects – Wastewater 1 of 2

	Reimbursement Ordinance	Notice of Intent
12/15-inch Robson Ranch Interceptor	\$ 500,000	\$ 500,000
21/27/30-inch Roark Branch Interceptor Ph. 2	2,500,000	2,500,000
Annual Field Service Replacements	1,050,000	500,000
Bonnie Brae PH 3-6 Wastewater Upgrades	1,020,000	2,000,000
Collector Replacement Program	2,276,552	-
Cooper Creek Lift Station Improvement Project	331,500	650,000
Emergency Equipment Storage Building	400,000	-
Fallmeadow Street Water Main	500,000	500,000
Granada Lift Station Replacement	1,122,000	500,000
Hickory Creek Interceptor IV	3,570,000	1,000,000
Hickory Creek Water Reclamation Plant Ph 1	100,000	100,000
Hobson Lift Station Electrical Upgrade	632,400	500,000
Lakey Street Water Main	500,000	500,000
Legends Sewer Line	510,000	-
Lift Station Replacement	500,000	500,000

Utility Projects – Wastewater 2 of 2

	Reimbursement Ordinance	Notice of Intent
Manhole Repair/Replace/Lining	150,000	150,000
Milam Creek Basin Wastewater Line and LS	12,182,880	23,888,000
Mingo/Ruddell/Quiet Zone Sewer Upgrades	510,000	1,000,000
Oversize Participation	13,040,000	13,040,000
PCWRP Expansion Headworks	4,794,000	9,400,000
PCWRP Utility Power Switch Replacement	250,000	-
Pipe/Force Main Condition Assessment	551,250	-
Robson Ranch Project Phase I & II	1,785,000	-
Robson West Lift Station	2,244,000	1,000,000
SCADA/HMI Upgrade Water Rec	1,250,000	1,000,000
Supplement to Bond Election 2019 Projects	13,000,000	13,000,000
Vehicle Replacement	903,286	903,286
Water Reclamations Grinder	1,500,000	-
Service Center Renovation	4,000,000	4,000,000
Wastewater Total	\$ 71,672,868	\$ 77,131,286

Utility Projects - Electric

	Reimbursement Ordinance	Notice of Intent
Automated Meter Reading	\$ 1,238,730	\$ 1,850,000
Land & Building Construction	2,500,000	3,900,000
Distribution Substations	6,550,000	5,054,394
Distribution Transformers	7,000,000	-
Feeder Extensions & Improvements	15,886,000	9,000,000
New Residential & Commercial	9,205,000	2,000,000
Power Factor Improvement	600,000	150,000
Street Lighting	800,000	176,330
Transmission Lines	6,400,000	625,000
Transmission Substations	8,350,000	10,160,000
Production Plant	6,358,000	6,358,000
Technology	4,090,000	7,626,276
Electric Relocations	6,000,000	1,000,000
Electric Total	\$ 74,977,730	\$ 47,900,000

Total CO Notice of Intentions

Solid Waste	\$ 11,125,711
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Total General Government	
Water	\$ 80,614,615
Wastewater	77,131,286
Electric	47,900,000
Issuance Cost & Pricing Flexibility*	1,869,099
<hr/>	
Total Utility System	\$ 207,515,000

*Shared with GO Bond Sale

Next Steps

- **May 20, 2025**
 - Council considers approval of NOI ordinances.
- **June 23, 2025**
 - PUB considers approval of bond ordinance authorizing the sale of Certificates of Obligation.
- **July 15, 2025**
 - Council considers approval of bond ordinances authorizing the sale of both General Obligation bonds and Certificates of Obligation.
- **July 23, 2025**
 - Preliminary date of sale if market conditions are favorable.
- **August 26, 2025**
 - Preliminary date of close and delivery of funds.

Questions





City of Denton

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

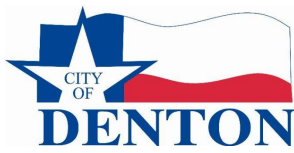
Legislation Text

File #: PUB25-064, **Version:** 1

AGENDA CAPTION

Management Reports

1. PUB25-036 Inquiry Memo
2. Future Agenda Items
3. New Business Action Items

**MEMORANDUM**

DATE: May 5, 2025

TO: Public Utilities Board Members

FROM: Jessica Williams, Chief Financial Officer
Azura Kerr, Senior Business Information Analyst

SUBJECT: Lee Riback, Public Utilities Board Inquiry

In response to your inquiry regarding Credit Systems Internal, Inc. sent on April 25, 2025, the City's Finance Department has prepared the following information.

For the past 21 years, the City of Denton's Utilities Customer Service, Finance, and Fire Departments have contracted with Credit Systems Internal, Inc. to assist with collecting unpaid invoices. The contract is paid out based on a percentage of the amount collected by the agency, and deducted from the total collected. If the agency does not collect, they do not receive payment. Current percentages range between 18% and 23% of total collections, depending on when the account was sent to collections and the contract term. Over the last three years, Customer Service has collected \$440,583.93 from these services, and Fire has collected an additional \$152,723.86.

Customer Service					Fire			
	Paid to Agency	Net Collected	Paid to City	Average Percentage Paid	Paid to Agency	Net Collected	Paid to City	Average Percentage Paid
2021	\$29,171.90	\$180,699.89	\$151,527.99	16.14%	\$53,114.99	\$116,900.42	\$63,785.43	45.44%
2022	26,107.82	174,720.27	148,612.45	14.94%	42,502.01	67,546.11	25,044.10	62.92%
2023	25,682.08	166,125.57	140,443.49	15.46%	52,840.86	116,735.19	63,894.33	45.27%
Total	\$80,961.80	\$521,545.73	\$440,583.93	15.52%	\$148,457.86	\$301,181.72	\$152,723.86	49.29%

OUR CORE VALUES

Inclusion • Collaboration • Quality Service • Strategic Focus • Fiscal Responsibility

Future Public Utilities Board Agenda Items

Note: This is a working draft of pending PUB items and is subject to change without notice.

Meeting Date	Item	Dept
May 5, 2025		
May 19, 2025	Denton Renewable Resource Plan Update	DME
June 9, 2025		
June 23, 2025	Financial Update	Finance
July 14, 2025	Budget Workshop	Finance
July 28, 2025	PUB to Consider recommending Utility Rates & Budget to Council	Finance
August 11, 2025		
August 25, 2025		
September 15, 2025		
September 29, 2025		
October 13, 2025		
October 27, 2025		
November 17, 2025		
December 15, 2025		

Codes: Work Session WS, Consent Agenda CA, Individual Consideration IC

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPT	STATUS
1.	4/25/25	Riback	Request for additional detail by department - PUB25-036.	Finance	5/5/25
2.					