

ORDINANCE NO. 20-198

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A CONTRACT WITH GENUINE PARTS COMPANY, DBA NAPA AUTO PARTS THROUGH THE SOURCEWELL COOPERATIVE PURCHASING NETWORK CONTRACT NUMBER 061015-GPC, FOR THE PURCHASE OF PRODUCTS AND SERVICES FOR THE ON-SITE PARTS FACILITY FOR FLEET SERVICES; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND DECLARING AN EFFECTIVE DATE (FILE 7136 – AWARDED TO GENUINE PARTS COMPANY, DBA NAPA AUTO PARTS, IN THE FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$20,000,000).

WHEREAS, pursuant to Ordinance 2015-076, Sourcewell, formerly National Joint Powers Alliance, has solicited, received, and tabulated competitive bids for the purchase of necessary materials, equipment, supplies, or services in accordance with the procedures of state law on behalf of the City of Denton; and

WHEREAS, the City Manager, or a designated employee, has reviewed and recommended that the herein described materials, equipment, supplies, or services can be purchased by the City through the Sourcewell program at less cost than the City would expend if bidding these items individually; and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items shown in the “File Number” referenced herein and on file in office of the Purchasing Agent, are hereby accepted and approved as being the lowest responsible bids for such items:

<u>FILE</u> <u>NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
7136	Genuine Parts Company, DBA NAPA Auto Parts	\$20,000,000

SECTION 2. By the acceptance and approval of the items set forth in the referenced file number, the City accepts the offer of the persons submitting the bids to Sourcewell, formerly National Joint Powers Alliance, for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, conditions, specifications, standards, quantities and for the specified sums contained in the bid documents and related documents filed with Sourcewell and the purchase orders issued by the City.

SECTION 3. Should the City and persons submitting approved and accepted items set forth in the referenced file number wish to enter into a formal written agreement as a result of the City's ratification of bids awarded by Sourcewell, the City Manager, or his designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications and standards contained in the Proposal submitted to Sourcewell, 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 his designee.

SECTION 5. By the acceptance and approval of the items set forth in the referenced file number, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approval purchase orders or pursuant to a written contract made pursuant thereto as authorized herein

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

The motion to approve this ordinance was made by GERARD HUDSPETH and seconded by JOHN RYAN, the ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Gerard Hudspeth, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Keely G. Briggs, 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 20th day of January, 2020.


CHRIS WATTS, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 



DocuSign City Council Transmittal Coversheet

COOP	7136
File Name	GENUINE PARTS COMPANY dba NAPA AUTO PARTS
Purchasing Contact	Crystal westbrook
City Council Target Date	January 28, 2020
Piggy Back Option	No
Contract Expiration	January 28, 2025
Ordinance	20-198

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND GENUINE PARTS COMPANY dba NAPA AUTO PARTS
(File # 7136)**

THIS CONTRACT is made and entered into this date 01/28/2020, by and between GENUINE PARTS COMPANY dba NAPA AUTO PARTS a Georgia Corporation, whose address is 2999 Wildwood Parkway, Atlanta, GA 30339, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

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

SCOPE OF SERVICES

Supplier shall provide products in accordance with the Supplier's agreement, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit "C"**. 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) Integrated Supply Agreement (**Exhibit "B"**);
- (c) Amendment to Integrated Supply Agreement (**Exhibit "C"**);
- (d) Assignment (**Exhibit "D"**);
- (e) Sourcewell Contract #061015 with GENUINE PARTS COMPANY dba NAPA AUTO PARTS, (**Exhibit "E" on file at the office of the Purchasing Agent**);
- (f) Insurance Requirements (**Exhibit "F"**);
- (g) City of Denton Standard Purchasing Terms and Conditions (**Exhibit "G"**);
- (h) Certificate of Interested Parties Electronic Filing (**Exhibit "H"**);
- (i) Sample Profit and Loss Statement (**Exhibit "I"**);
- (j) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "J"**)

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

Supplier 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, Supplier certifies that Supplier's signature provides written verification to the City that Supplier: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition On Contracts With Companies 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, Supplier certifies that Supplier's signature provides written verification to the City that Supplier, pursuant to Chapter 2252, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization.** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

DocuSigned by: **LIER**
Stu Kambury
BY: 010A37EAF7E44DF...
AUTHORIZED SIGNATURE
Stuart Kambury
Printed Name: _____
Division VP
Title: _____
2142632337

PHONE NUMBER
2142632337

EMAIL ADDRESS
DVP

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

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

DocuSigned by: _____
Ethan Cox Ethan Cox
A83AA619E7314D7...
SIGNATURE PRINTED NAME
Director

TITLE
Public works

DEPARTMENT

CITY OF DENTON, TEXAS
DocuSigned by: _____
Todd Hileman
BY: E776C711BA0D454...
TODD HILEMAN
CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY
DocuSigned by: _____
Rosa Rios
BY: 1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY
DocuSigned by: _____
Mack Peinward
BY: 7F9D328BF0204E5...

Exhibit A
Special Terms and Conditions

Contract Term

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

The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

Total Contract Amount

The contract total shall not exceed **\$20,000,000**. Pricing shall be per Exhibit C attached.

Exhibit B

INTEGRATED SUPPLY AGREEMENT

BY AND BETWEEN

GENUINE PARTS COMPANY

AND

CITY OF DENTON, TEXAS

**INTEGRATED SUPPLY AGREEMENT
BY AND BETWEEN
GENUINE PARTS COMPANY
AND
THE CITY OF DENTON, TEXAS**

THIS INTEGRATED SUPPLY AGREEMENT (this “Agreement”) is made by and between **GENUINE PARTS COMPANY**, a Georgia corporation (d/b/a NAPA Auto Parts) (“NAPA”), and **THE CITY OF DENTON, TEXAS**, (“CUSTOMER”), to be effective as of the 28th day of January, 2020 (the “Effective Date”).

W I T N E S S E T H

WHEREAS, pursuant to a competitive bidding and selection process by Sourcewell (f/k/a National Joint Powers Alliance) (hereinafter, “Sourcewell”), a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21, Sourcewell and NAPA executed contract #061015 on July 21, 2015 (hereinafter, “Sourcewell Contract”), attached hereto as Exhibit, to establish a source of supply for certain auto, truck and bus parts as well as to provide integrated business solutions services; and

WHEREAS, by becoming a participating member of Sourcewell (hereinafter, “Member”), the State of Texas and its related entities (hereinafter, “User Agencies”) are authorized to utilize the pricing and incentives available to Sourcewell Members set forth in the Sourcewell Contract; and

WHEREAS, CUSTOMER is authorized by Ordinance 2015-076 to contract through Sourcewell for materials, equipment, supplies, and services and desires to become a User Agency under such Sourcewell Contract and desires to receive integrated business solutions services from NAPA; and

WHEREAS, CUSTOMER and NAPA agree that the Sourcewell Contract is a vehicle by which CUSTOMER may contract directly with NAPA for parts and services, but that the terms and conditions of this Agreement and not the terms and conditions of the Sourcewell Contract shall govern the relationship of the parties; and

WHEREAS, NAPA desires to provide integrated business solutions services and to establish inventories in CUSTOMER’s locations to service the fleet parts needs of CUSTOMER and to serve as the primary supplier of automotive replacement parts and other supplies and/or equipment (the “Inventory” or “Products”) to serve the needs of CUSTOMER; and

WHEREAS, CUSTOMER desires to provide space for the Inventory on the premises of CUSTOMER for use by NAPA (“On Site Store(s)”) and agrees that NAPA will be its primary supplier of the Inventory pursuant to the terms herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) ***Primary Supplier*** shall mean the parts supplier that provides a minimum of ninety percent (90%) of the Inventory needs of CUSTOMER.
- (b) ***NAPA Owned Store*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" which is wholly owned by NAPA.
- (c) ***NAPA Jobber*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" with respect to which NAPA maintains no ownership interest.
- (d) ***Current NAPA Jobber Acquisition Cost*** shall mean NAPA's current gold price as set forth on NAPA's Confidential Jobber Cost and Suggested Resales price list.

2. **CUSTOMER'S CURRENT LOCATIONS.** NAPA will establish On Site Store(s) at the CUSTOMER'S following location(s):

804 TEXAS STREET
DENTON, TX 76209
(940) 349-8442
Manager: JAMES BROWN

Additional locations of the CUSTOMER may be added to this Agreement but only by a written amendment executed and agreed to by both the CUSTOMER and NAPA.

3. **TERM.** This Agreement shall begin the date this Agreement is fully executed and shall end when the Sourcewell Contract terminates or expires or when terminated earlier in accordance with the applicable terms and conditions stated herein. As the Sourcewell Contract is renewed or extended, this Agreement may be renewed or extended for a period of time equal to or shorter than the period of time the Sourcewell Contract is renewed or extended upon the mutual written agreement of the Parties. This Agreement shall terminate automatically upon the termination, for any reason, of the Sourcewell Contract. Notwithstanding the foregoing, either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.

4. **DUTIES AND RESPONSIBILITIES OF NAPA.** NAPA shall have the following duties and responsibilities during the term of this Agreement:

(a) NAPA will operate the On Site Store(s) and provide the Inventory to CUSTOMER's now existing locations. NAPA shall provide all personnel required to operate the On Site Store(s).

(b) In those circumstances when delivery is required by CUSTOMER, NAPA will provide parts to CUSTOMER's locations on a daily route basis. In addition, NAPA will accelerate delivery on those items CUSTOMER requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the CUSTOMER's location(s) requesting part(s).

(c) NAPA shall provide all computers and reports necessary to monitor monthly expenses as they pertain to the daily operation of the On Site Store(s). NAPA shall provide computer ordering and cataloging to each On Site Store.

(d) NAPA shall provide a profit and loss statement of the parts operations to the CUSTOMER on approximately the 25th of each month for each On Site Store.

(e) NAPA shall provide back-up emergency service during non-working hour contingencies. This overtime expense (calculated at time and one half) will be charged on a cost basis to CUSTOMER, and must be pre-approved by CUSTOMER. The parties shall mutually agree upon the pre-approval process for such emergency situations. NAPA will provide a list of personnel, including telephone numbers, who will respond to emergency service requests.

5. **DUTIES AND RESPONSIBILITIES OF CUSTOMER.** CUSTOMER shall have the following duties and responsibilities during the term of this Agreement:

(a) CUSTOMER shall provide, at its sole expense, usable space for NAPA's On Site Store(s) and the Inventory. CUSTOMER shall provide access to restroom facilities for NAPA employees. Further, CUSTOMER shall furnish, at its sole expense, all utilities for the On Site Store(s) including: water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s) whatsoever. CUSTOMER shall provide NAPA a safe work environment that is free from hostility, violence, or discrimination. NAPA reserves the right to terminate the contract immediately should NAPA encounter a hostile, violent, discriminatory, or unsafe work environment.

(b) CUSTOMER shall use NAPA as its Primary Supplier of the Inventory under this Agreement. CUSTOMER reserves the right to purchase any item outside this Agreement where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in NAPA no longer being CUSTOMER's Primary Supplier in which case NAPA may terminate this Agreement.

(c) Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of CUSTOMER. There shall be no intermingling of CUSTOMER'S parts or other inventory with NAPA'S parts or inventory. Access to the secured On Site Store(s) shall be restricted to NAPA employees and authorized NAPA representatives only. CUSTOMER'S employees, contractors or agents shall not be permitted to enter the secured On-Site Store area unless accompanied by a NAPA employee or other authorized NAPA representative.

(d) CUSTOMER shall, at all times during the term of this Agreement, at CUSTOMER'S sole expense, maintain in good condition and repair (so as to prevent any damage or injury to NAPA'S employees, the Inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).

(e) CUSTOMER shall provide information regarding fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet and the addition of new vehicles to the fleet.

6. ALTERNATIVE SUPPLIERS. Each On Site Store may be serviced by a NAPA Owned Store or a NAPA Jobber. CUSTOMER acknowledges that whether it will be serviced by a NAPA Owned Store or a NAPA Jobber will be determined by NAPA, in its sole discretion, and that if CUSTOMER is to be serviced by a NAPA Jobber, then such NAPA Jobber must evidence its desire to abide by the terms of this Agreement by entering into an Assignment in the form of Exhibit D hereto.

7. PAYMENT TERMS/PRICING. NAPA shall invoice the CUSTOMER for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. CUSTOMER agrees to pay the entire amount of all statements received from NAPA by the 25th day of the month following receipt of any such statement. If CUSTOMER has not paid the entire amount of all statements received from NAPA within 10 days of the 25th day of the month following receipt of such invoice, CUSTOMER shall be put on COD until such amount is paid in full. No prompt pay discount is available under this Agreement.

There are two pricing options available to CUSTOMER. The pricing option for *this* Agreement must be indicated by CUSTOMER initials, below.

PRICING OPTION #1

CUSTOMER INITIALS: _____

The overall objective of CUSTOMER's pricing plan is for NAPA to provide Products in accordance with the agreed upon Pricing Plan Summary set forth below. By billing CUSTOMER for the Products, NAPA's On Site Store(s) will achieve its target ten percent (10%) net profit for the Agreement (the "Net Profit Target"). CUSTOMER's pricing plan is comprised of the following elements:

- (a) **Product Price.** The pricing of the Products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) "**NAPA Product Price**," which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products; and 2) "**Non-NAPA Product Price**," which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement. The pricing of NAPA Product and Non-NAPA Product shall be billed in accordance with the Pricing Plan Summary defined below.

- (b) **Operational Expenses.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit B ("Corporate Allocation Expenses") which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement. These Corporate Allocation Expenses allow NAPA to have fewer employees performing routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

PRICING PLAN SUMMARY

NAPA Product Price	Billed to CUSTOMER on a “9074 NAPA Pricing Profile”
Non-NAPA Product Price	Billed to CUSTOMER at a 25% gross profit rate (The formula for Non-NAPA Product Price for CUSTOMER is the current product acquisition cost divided by .75) This formula will achieve the gross profit rate set forth above. Example: current product acquisition cost is \$1.00. CUSTOMER’s price would be $\$1.00/.75=\1.33
Operational Expenses	Paid entirely by NAPA
Net Profit Target	Amounts will be refunded or charged based on the failure or achievement of an overall 10% net profit for the previous month.

NAPA Product shall be billed to CUSTOMER based on a “9074 NAPA Pricing Profile” which has been provided to CUSTOMER in connection with this Agreement. Non-NAPA Product shall be billed by NAPA to yield a gross profit of twenty-five percent (25%). All Operational Expenses shall be borne by NAPA.

Sales at each On Site Store location will be reviewed after the first ninety (90) days of operation and on a month by month basis thereafter to ensure a ten percent (10%) net profit for NAPA. If monthly sales at each On Site Store, independently as opposed to in the aggregate, are producing more than a ten percent (10%) net profit for NAPA, NAPA will pay to CUSTOMER, via a refund check, the overage. Conversely, if NAPA’s net profit for the preceding month is less than ten percent (10%), NAPA will bill CUSTOMER for the deficiency.

CUSTOMER and NAPA mutually agree that CUSTOMER’S maximum payment obligation pursuant to this profit guarantee shall be set at \$_____; and CUSTOMER has encumbered such amount to cover this potential liability. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract.

CUSTOMER INITIALS _____

In addition, NAPA may use any sub-contractor for the procurement of “outside” purchases or services (i.e., those parts or services not traditionally stocked or performed by NAPA), and CUSTOMER will be billed an additional charge for any such purchases so as to yield NAPA a twenty-five percent (25%) gross profit on such purchases. CUSTOMER must provide pre-approval in writing for such outside purchases. CUSTOMER is solely responsible for improper or inappropriate instructions by CUSTOMER’s employees to NAPA regarding NAPA’s purchases of nontraditional parts or services, unless CUSTOMER provided prior

written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement.

PRICING OPTION #2

CUSTOMER INITIALS: _____

The overall objective of CUSTOMER's pricing plan is for NAPA to provide Products in accordance with the agreed upon Pricing Plan Summary set forth below and reimbursement by CUSTOMER of each On Site Store's operating expenses. By billing CUSTOMER for these two categories, NAPA's On Site Store(s) will achieve its target ten percent (10%) net profit for the Agreement (the "Net Profit Target"). These categories are defined as follows:

- (a) **Product Price.** The pricing of the Products to be supplied to CUSTOMER by NAPA pursuant to this Agreement shall be divided into: 1) "**NAPA Product Price**," which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products; and 2) "**Non-NAPA Product Price**," which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement. The pricing of NAPA Product and Non-NAPA Product shall be billed in accordance with the Pricing Plan Summary defined below.
- (b) **Operational Expenses.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit B. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit B ("Corporate Allocation Expenses") which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement. These Corporate Allocation Expenses allow NAPA to have fewer employees performing routine general administrative

tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

PRICING PLAN SUMMARY

NAPA Product Price	Billed to CUSTOMER at a 10% gross profit rate (The formula for NAPA Product Price for CUSTOMER is the Current NAPA Jobber Acquisition Cost divided by .90) This formula will achieve the gross profit rate set forth above. Example: Current NAPA Jobber Acquisition Cost is \$1.00. CUSTOMER's price would be $\$1.00/.90=\1.11
Non-NAPA Product Price	Billed to CUSTOMER at a 10% gross profit rate (The formula for Non-NAPA Product Price for CUSTOMER is the current product acquisition cost divided by .90) This formula will achieve the gross profit rate set forth above. Example: current product acquisition cost is \$1.00. CUSTOMER's price would be $\$1.00/.90=\1.11
Operational Expenses	Billed to CUSTOMER in accordance with Section 7(b) above.
Net Profit Target	10% net profit for the NAPA On Site Store(s) after Products and Operational Expenses are billed to CUSTOMER.

Both NAPA Product and Non-NAPA Product shall be set by NAPA to yield a gross profit of ten percent (10%). Operational Expenses will be charged to CUSTOMER in accordance with Section 7(b) above, with all such charges for Operational Expenses to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for Operational Expenses on an "in arrears" basis.

CUSTOMER and NAPA mutually agree that CUSTOMER'S maximum payment obligation pursuant to this profit guarantee shall be set at \$ _____; and CUSTOMER has encumbered such amount to cover this potential liability. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract.

CUSTOMER INITIALS _____

In addition, NAPA may use any sub-contractor for the procurement of "outside" purchases or services (i.e., those parts or services not traditionally stocked or performed by NAPA), and CUSTOMER will be billed an additional charge for any such purchases so as to yield NAPA a ten percent (10%) gross profit on such purchases. CUSTOMER must provide pre-approval in

writing of such outside purchases. CUSTOMER is solely responsible for improper or inappropriate instructions by CUSTOMER's employees to NAPA regarding NAPA's purchases of nontraditional parts or services, unless CUSTOMER provided prior written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement.

8. INSURANCE.

(a) CUSTOMER is a state agency and is self-insured for liability and workers compensation through the Department of Administrative Services. CUSTOMER shall provide to NAPA, upon execution of this Agreement, a copy of all Certificates of Insurance evidencing the insurance coverages above.

(b) NAPA shall maintain during the term of this Agreement worker's compensation insurance coverage for its employees located at the On Site Store(s) in amounts required by law. In addition, NAPA shall maintain personal property insurance during the term of this Agreement in an amount sufficient to cover any loss or damage to the Inventory and any other personal property owned by NAPA that is located at the On Site Store(s).

(c) The insurance policies in this section required to be held by each party shall contain a waiver of subrogation against the other party.

(d) Neither CUSTOMER nor the Department of Administrative Services shall procure or provide insurance for NAPA property or Inventory.

9. NO LIENS.

(a) CUSTOMER warrants that it shall take no action, including but not limited to the granting of a security interest, or fail to take any action, which would operate or does operate in any way to encumber the Inventory of NAPA located in the On Site Store(s).

(b) CUSTOMER grants NAPA a power of attorney to execute such documents as are necessary to protect NAPA's interest in the Inventory on consignment on CUSTOMER's premises, including any UCC-1 statements.

10. PERSONNEL. NAPA and CUSTOMER shall attempt in good faith to mutually agree upon the identity of the persons that will be selected to staff the On Site Store(s). In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve CUSTOMER's request by mutual agreement.

11. WARRANTY/LIABILITY DISCLAIMER. All Products supplied pursuant to this Agreement are subject to the terms of written warranties provided by the manufacturer of each Product, and NAPA shall use reasonable commercial efforts to assist the CUSTOMER in processing all warranty claims that the CUSTOMER may have against a manufacturer. The manufacturer's warranty will be the sole and exclusive remedy of the CUSTOMER in

connection with any claims concerning the Products supplied to CUSTOMER pursuant to this Agreement. ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. Copies of the manufacturers' warranties are available to CUSTOMER upon request.

For suppliers (or categories of suppliers) of Non-NAPA Products that CUSTOMER instructs NAPA to utilize or consider for future purchases, NAPA is under no obligation to (and NAPA disclaims all liability in connection with) investigate product quality, management, ownership, reputation, certifications, qualifications, price competitiveness, or any other related characteristics of the products, individuals or entities at issue.

12. TERMINATION FOR CAUSE. This Agreement may be terminated immediately, unless otherwise stated in this Section 12, by either party for cause:

(a) In the event that the other party fails or refuses to pay any amounts due under this Agreement and such failure continues for ten (10) days;

(b) In the event that the other party fails or refuses to perform any other obligation required under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or

(c) In the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.

13. EFFECT OF TERMINATION. Immediately upon termination of this Agreement by either party for any reason:

(a) All duties, responsibilities and other obligations of each party hereunder shall terminate, except for the payment of any amounts due and owing to NAPA at the time of termination.

(b) Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property owned by the other party that are in such party's possession. CUSTOMER shall allow NAPA full and unrestricted access to enter into the On Site Store(s) and immediately remove all equipment and other items of personal property owned by NAPA without being deemed guilty of trespass or any other violation of the law. All inventory records, sales history, sales analysis and all other information generated by NAPA under this Agreement will be returned to CUSTOMER.

Nothing contained in this Section shall be deemed a waiver of, or in any other manner impair or prejudice, any other legal rights that either party may have against the other party for any breach of this Agreement. The provisions and obligations of Sections 9, 11, 14, 15, 18, and 20 shall survive the termination of this Agreement for any reason.

14. BUY-BACK OF INVENTORY. Upon termination, expiration, or non-renewal of this Agreement, NAPA shall have the option to require CUSTOMER to purchase all non-NAPA Inventory owned by NAPA and located in each On Site Store at NAPA's On Site Store's current product acquisition cost, and CUSTOMER shall have the option to purchase all NAPA Inventory, owned by NAPA and located in each On Site Store at the Current NAPA Jobber Acquisition Cost. Upon CUSTOMER's request, NAPA shall provide CUSTOMER with a listing of all NAPA and non-NAPA Inventory owned by NAPA and located in the On Site Store(s).

CUSTOMER INITIALS: _____

15. CHANGE OF CONTROL. NAPA may unilaterally terminate this Agreement by giving thirty (30) days written notice to CUSTOMER upon the occurrence of any one or more of the following events:

- (a) A change in the management or ownership of CUSTOMER;
- (b) A sale, lease, assignment or other transfer of CUSTOMER'S business or assets, whether through a stock purchase, merger, asset purchase, or other similar transaction, of at least a ten percent (10%) interest therein.

16. LANDLORD CONSENT AND WAIVER. Not Applicable.

17. INDEMNIFICATION. NAPA SHALL BE RESPONSIBLE FOR AND SHALL INDEMNIFY AND HOLD CUSTOMER HARMLESS FROM AND AGAINST ALL DAMAGES, CLAIMS OR DEMANDS THAT MAY, DURING THE TERM OF THIS AGREEMENT, ARISE OR BE OCCASIONED BY THE NEGLIGENT OR INTENTIONAL ACTS OF NAPA OR NAPA'S EMPLOYEES.

18. NOTICES. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered in person or sent via facsimile, by overnight mail through a reputable service, or by certified mail, return receipt requested, to the addresses set forth below:

As to NAPA: Genuine Parts Company
804 Texas Street
Denton, TX 76209
Attn: James Brown
Telephone: (940) 349-8442

As to CUSTOMER: City of Denton
901B Texas Street
Denton, Texas 76209
Attn: Purchasing Manager
Telephone: (940) 349-7100

Each such notice shall be deemed delivered (i) on the date of receipt if delivered by hand, overnight courier service or if sent by facsimile, or (ii) on the date three (3) business days after depositing with the United States Postal Service if mailed by registered or certified mail. Either party may change its address specified for this notice by giving the other party at least ten (10) days written notice in accordance with this Section 18.

19. FORCE MAJEURE / DAMAGE OF PREMISES.

(a) Whenever performance by either party of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies or by any other cause not within the reasonable control of such party and not occasioned by its negligence, then such performance shall be excused and the performance of such obligations under this Agreement shall be suspended for the duration of such prevention and for a reasonable time thereafter.

(b) NAPA may terminate this Agreement immediately in the event that the CUSTOMER's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the CUSTOMER's premises unusable for the On Site Store(s) in the reasonable judgment of NAPA.

20. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.

21. AMENDMENTS. No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

22. NO WAIVER OF RIGHTS. No failure of either party hereto to exercise any power given such party hereunder or to insist upon strict compliance by the other party to its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

23. LIMITATIONS ON RIGHTS OF THIRD PARTIES. All obligations of a party under this Agreement are imposed solely and exclusively for the benefit of the parties, and no other person shall, under any circumstances, be deemed to be a beneficiary of such obligations.

24. INDEPENDENT CONTRACTOR. The parties hereto are independent contractors. Nothing in this Agreement shall create or shall be deemed to create any fiduciary relationship or the relationship of principal and agent, partnership, joint venturers or any other similar or representative relationship between the parties hereto.

25. **CHOICE OF LAW.** This Agreement shall be construed and interpreted under the laws of the State of Georgia.

26. **COUNTERPARTS.** 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.

27. **SECTION HEADINGS.** Section titles or captions contained herein are inserted only as a matter of convenience for reference and in no way define, limit, extend, or describe the scope hereof or the intent of any provision hereof.

28. **SEVERABILITY.** In the event any part of this Agreement shall be finally determined by a court of law to be illegal or unenforceable for any reason, then that illegal or unenforceable part shall be severed from the Agreement, and the remaining terms shall continue in full force and effect.

29. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement of the parties hereto and no prior representation, inducement, promise or agreement, oral or written, between the parties not embodied herein shall be of any force and effect.

30. **AMENDMENT TO INTEGRATED SUPPLY AGREEMENT.** Simultaneous with the execution of this Agreement, NAPA and CUSTOMER shall execute that certain Amendment to Integrated Supply Agreement dated as of even date herewith, attached hereto as Exhibit C.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties hereto cause their hands and seals to be affixed by their duly-authorized representatives effective as of the date and year first above written.

GENUINE PARTS COMPANY

DocuSigned by:
By: Stu Kambury _____
Name: Stu Kambury
Title: DVP

CITY OF DENTON, TEXAS

DocuSigned by:
By: Todd Hileman _____
Name: City manager
Title: City Manager

EXHIBIT C

AMENDMENT TO INTEGRATED SUPPLY AGREEMENT

See attached.

**AMENDMENT TO INTEGRATED SUPPLY AGREEMENT BETWEEN
GENUINE PARTS COMPANY
AND
CITY OF DENTON, TEXAS**

THIS AMENDMENT TO INTEGRATED SUPPLY AGREEMENT (this "Amendment") is entered into this 28th day of January, 2020 (the "Amendment Effective Date") by and between **GENUINE PARTS COMPANY**, a Georgia corporation ("NAPA") and **CITY OF DENTON, TEXAS** ("CUSTOMER").

WHEREAS, NAPA and CUSTOMER are parties to that certain Integrated Supply Agreement dated as of January, ~~2020~~ (the "Agreement") for the supply and sale of automotive parts and related supplies at certain locations as required by CUSTOMER; and

WHEREAS, NAPA and CUSTOMER desire to amend the Agreement according to the terms set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NAPA and CUSTOMER hereby agree to amend the Agreement as follows:

1. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

2. Primary Supplier. The definition of "Primary Supplier" in the Agreement is hereby deleted and replaced with the following:

““Primary Supplier” shall mean the parts supplier that provides a minimum of ninety percent (90%) of the Inventory needs of CUSTOMER; provided that (i) CUSTOMER shall reserve the right to obtain certain parts and supplies considered to be critical to service during emergency situations, or for which CUSTOMER determines it to be in its best interest to retain purchasing control and (ii) CUSTOMER will maintain its own contracts for the supply of fuel and certain operating department supplies to be issued through the CUSTOMER’s Materials Management Distribution Center.”

3. Term. Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

“**3. TERM.** This Agreement shall begin the date this Agreement is fully executed and shall expire on the date that is three (3) years from such date, or when terminated earlier in accordance with the applicable terms and conditions stated herein. Following the expiration of the initial three (3) year term, CUSTOMER shall have the option to extend the term of this Agreement for two (2) additional one year periods. Notwithstanding the foregoing, either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.”

4. On-Site Personnel and Hours of Operation. Section 4(a) of the Agreement is hereby revised to add the following to the end of such section:

“NAPA shall provide a maximum number of seven (7) full-time on-site personnel if required to meet the parts availability performance standards mutually agreed upon by the CUSTOMER and NAPA. All of the assigned full-time personnel shall be ASE Certified Parts Specialists. Counter personnel are responsible for researching to insure the proper part is placed on order. NAPA will be responsible for costs incurred when a wrong part is received. One of the seven (7) full-time on-site personnel shall be a manager who has vast parts room experience. The driver shall maintain a good driving record for the duration of the contract.”

5. Deliveries. Section 4(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(b) In those circumstances when delivery is required by CUSTOMER, NAPA will provide parts to CUSTOMER’s locations on a daily route basis. In addition, NAPA will accelerate delivery by use commercially reasonable efforts to make delivery within one hour if an item is in stock at another On Site Store in Denton, and within four hours if an item is in stock at another NAPA store within the DFW metroplex, on those items CUSTOMER requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the CUSTOMER’s location(s) requesting part(s). As noted in Section 4(i), there will, however, be instances, beyond the reasonable control of NAPA, when a product is not available within the established performance standards.”

6. Hours of Operation and Emergency Services. Section 4(e) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(e) Counter service shall be provided at the CUSTOMER’s Fleet Services parts warehouse during normal hours of operation and will consist of no less than two (2) NAPA employees during the hours of 7:00 a.m. to 7:00 p.m. Fleet Services is closed on weekends and CUSTOMER holidays except for emergency situations. The normal hours of operation may change due to the operational needs of Fleet Services and other CUSTOMER Departments. NAPA shall provide overtime and emergency service support outside of the normal working hours designated in this section. The overtime expense (calculated at time and one half) will be charged on a cost basis to the CUSTOMER. The CUSTOMER will notify NAPA when a requirement exists and the nature and anticipated duration of the response needed from NAPA. NAPA shall use its best efforts to be on-site to provide service with an appropriate complement of personnel within 30 minutes (.5) hour of notification that such services are required. NAPA coverage for Emergency Services shall be on a 24-hour basis until the emergency has cleared or as directed by the CUSTOMER’s Fleet Superintendent. NAPA shall provide an Emergency Personnel Contact List including a phone number, preferably mobile phone number, where each person can be reached outside of normal working hours. CUSTOMER prefers a main contact person, a backup person, and an emergency contact phone number at NAPA’s corporate office.”

7. Duties and Responsibilities of NAPA. Section 4 of the Agreement is hereby amended to add subsections (f)-(q) as follows:

“(f) NAPA shall provide such other related services as may be required and directed by the CUSTOMER. Advance approval is required in writing before access to any facility after hours is authorized or any overtime is performed.

(g) NAPA will make available an average of 24 hours of training annually to CUSTOMER Fleet Services technicians. This shall include, but not be limited to, classroom and hands-on training, new and or current product review, new procedures and ASE Certification training. The content and quality for such training will be mutually agreed upon between CUSTOMER and NAPA.

(h) NAPA shall submit monthly reports to the CUSTOMER in the format generated by NAPA’s TAMS computer system that include the following:

HUB201 – Order Summary Report – summarizes daily, MTD, YTD parts requests and values for all CUSTOMER IBS locations

HUB203 – Open Parts Request Report/Unit Status Report – lists all open part requests by Work Order or Unit Number, providing pertinent details about parts on order, such as quantities, vendor, ETA and order status

HUB204 – Daily Transaction Report and MTD Recap – lists transactions that occur each day including purchases, new returns, cores and warranties. Also highlighted is the monthly transaction summary.

HUB205 – Fleet Availability Report – provides a rolling thirty-one (31) day review of the number of daily out of service assets for the IBS location.

HUB206 – Inventory Snapshot Report – includes a snapshot of NAPA and CUSTOMER owned inventory as of the current day and calculated form list prices. Report also shows the end of the month inventory position for the previous twelve (12) months.

HUB208 – Demand Fill Rate Report – provides a rolling thirty-one (31) day review of part fill rate percentages.

HUB209 – Summary Cost Comparison Report – summarizes daily, MTD and YTD cost comparison data.

In addition NAPA shall, upon request, provide any such other reports which the CUSTOMER may reasonably request which are capable of being produced by NAPA’s TAMS computer system.

(i) NAPA shall provide 85% of parts requested on demand, and 95% of parts requested within 24 hours of demand. There will, however, be instances, beyond the reasonable control of NAPA, when a product is not available within the established performance standards, in which case NAPA shall provide CUSTOMER with a daily status update on the anticipated delivery of the part. The following listed events, and other events beyond NAPA’s reasonable control, shall relieve NAPA from meeting the above performance standards, and will be excluded when calculating the monthly order fill rates so long as a daily update is provided to CUSTOMER. Example of such instances include, but are not limited to:

- Products from a single source provider that are out of stock
- Products on backorder from the manufacturer
- Products that have to be, or that are requested to be, rebuilt
- Products that have to be fabricated
- Non-NAPA labor disputes, strikes, and other events beyond NAPA’s reasonable control

- Conditions out of NAPA's reasonable control, such as adverse traffic conditions, distance to suppliers, logistic conflict with existing delivery demands, etc., may delay the pickup of Products that are procured from off-site locations and NAPA will not be held liable in any manner for such delayed deliveries. NAPA's employees shall make such deliveries in a manner consistent with safe and responsible driving practices.

(j) NAPA shall maintain a baseline target of 4.0 annual inventory turns for all inventory items other than Critical Parts Inventory (as defined below). Annual inventory turns is defined as the annual cost of goods sold divided by the average annual inventory value, excluding Critical Parts Inventory. CUSTOMER and NAPA shall reserve the right to request the removal of inventory items that are turning less than 4 times per year. CUSTOMER staff shall evaluate the request of NAPA, and the stock levels, to determine whether to maintain these items in inventory. "Critical Parts Inventory" means that inventory which the parties may from time to time mutually agree is critical to CUSTOMER's operation. NAPA and CUSTOMER's Fleet Manager shall in good faith evaluate the composition of Critical Parts Inventory on a quarterly basis.

(k) CUSTOMER may request that NAPA accept return of merchandise already delivered or that NAPA cancel an order prior to delivery. If the return is required through no fault of NAPA, NAPA may invoice CUSTOMER for a reasonable restocking charge based on the restocking fee charged by the applicable manufacturer or supplier; provided that NAPA may not charge a restocking fee in excess of ten percent (10%) without CUSTOMER's prior written consent. If a manufacturer or supplier restocking fee is in excess of ten percent (10%) and CUSTOMER does not agree to pay such charge, NAPA shall not be required to return the item at issue, and may invoice CUSTOMER for such item.

(l) CUSTOMER's vehicle and equipment inventory changes constantly and as a result parts stocked by NAPA may become excess or obsolete in relation to CUSTOMER's fleet. CUSTOMER and NAPA shall review inventory biannually to determine whether any inventory then in stock is excess or obsolete inventory. Upon request by the CUSTOMER, NAPA shall make commercially reasonable efforts to return for credit and/or exchange for current stock needs any parts for vehicles or equipment which CUSTOMER determines are no longer needed, are out of date, constitute excess inventory, or are obsolete.

(m) CUSTOMER has the right to conduct quarterly parts price comparison to ensure the CUSTOMER is obtaining the best value. NAPA and CUSTOMER shall develop mutually agreeable random comparison criteria for comparing prices paid for the top fifty (50) parts issued to CUSTOMER with those paid by other contracted NAPA IBS entities in CUSTOMER's region.

(n) NAPA shall implement a Quality Assurance Program for the management of the parts supply function. The program shall include provisions for meeting specified performance standards, for providing high quality parts, and for providing a high level of customer service. A mandatory component of the Quality Assurance Program shall be periodic customer satisfaction surveying with CUSTOMER, conducted at meetings between CUSTOMER and NAPA. At a minimum, NAPA shall meet with CUSTOMER annually and conduct a survey of CUSTOMER's maintenance, administrative and operating department personnel to determine customer satisfaction and attempt to address any ongoing issues.

(o) CUSTOMER maintains a cataloging system for all chemicals, chemical compounds, and chemical mixtures. NAPA shall provide a Material Safety Data Sheet (MSDS) for all chemicals and parts containing any potential hazardous material. The MSDS documents shall be kept up-to-date and available to CUSTOMER staff at all times.

(p) NAPA shall provide authorized representatives of the CUSTOMER, at all reasonable times, access to and copies of all electronic and hard data, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, time cards, and memoranda related to the Agreement, and shall provide cost verification for parts provided to the CUSTOMER under the terms of this Agreement within a commercially reasonable time after the request, not to exceed 10 business days.

(q) NAPA agrees to arrange for third parties to handle the disposal and/or recycling of used motor oil, used oil filters, used hydraulic fluid, used anti-freeze, used refrigerant, scrap tire casings, used batteries, and battery acid, but will not be directly involved in the actual disposal of such items. NAPA shall use reasonable commercial efforts to only use Disposal Companies approved by the CUSTOMER to comply with "Cradle to Grave" liability for generated waste products. **NAPA SHALL DEFEND THE CUSTOMER FROM ANY LIABILITY CAUSED BY NEGLIGENT ACTS OF NAPA'S EMPLOYEES, AND ASSIST THE CUSTOMER IN PROCESSING ANY CLAIM THAT MAY ARISE AGAINST SUCH THIRD PARTY ASSOCIATED WITH THE DISPOSAL OF THE ITEMS.** CUSTOMER reserves the right to select all, some or none of the items for disposal. Disposal of any such products shall be only in a manner prescribed by Federal, State and local laws. NAPA shall immediately convey to the CUSTOMER, all documentation received including but not limited to manifests and other records for shipping and disposal of such products to ensure proper disposal, handling and shipping, for permanent retention, in accordance with all applicable laws. All recycled items shall be billed to CUSTOMER at a pass-through cost only. Any revenue generated through the disposal plan shall be returned to the CUSTOMER's Contract Administration Supervisor at the following address:

City of Denton Purchasing
Attn: Contract Administration Supervisor
901 B Texas Street
Denton, TX 76209.

8. Pricing/Payment Terms. Section 7 of the Agreement is hereby deleted in its entirety and replaced with the following:

7. PRICING/PAYMENT TERMS. NAPA shall invoice the CUSTOMER for all inventory purchased pursuant to this contract on a monthly basis according to the pricing plan below. CUSTOMER agrees to pay the entire amount of all statements received from NAPA within thirty (30) days following receipt of any such statement. If CUSTOMER has not paid the entire amount of all statements received from NAPA within thirty (30) days following receipt of such invoice, CUSTOMER's services may be suspended at CUSTOMER's sole cost and expense, until previously "undisputed" invoiced amount has been paid in full. No prompt pay discount is available under this Agreement.

The overall goal of CUSTOMER's pricing plan is to achieve a ten percent (10%) net profit for NAPA (the "Net Profit Target"). CUSTOMER's pricing plan is comprised of the following elements:

(a) *Product Costs.* The pricing of the inventory to be supplied to CUSTOMER by NAPA pursuant to this Agreement. Product Costs shall be divided into "NAPA Product Costs," which is the pricing of NAPA branded or NAPA cataloged supplier manufactured products, and "Non-NAPA Product Costs," which is the pricing of products which have not been manufactured by NAPA suppliers or do not exist in NAPA's proprietary catalog system but which have been acquired for CUSTOMER by NAPA pursuant to this Agreement.

(b) *Outside Purchases or Services Costs.* Outside Purchases or Services Costs is the pricing of those parts or services not traditionally stocked or performed by NAPA.

(c) *Operational Costs.* Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, the Corporate Allocation Expenses (as defined below), any and all costs and expenses charged to NAPA or incurred by NAPA, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s), inventory, any deductible for losses covered under the insurance policies of NAPA, and all equipment supplied by NAPA; provided that NAPA may not provide an increase in salary to any of its employees in excess of three percent (3%) per year without CUSTOMER's prior written approval. Corporate Allocation Expenses may include, but are not limited to, inventory investment expense, pension funding cost, executive fees, accounting fees, general office fees, and shared service expense. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit I. CUSTOMER acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit I are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel or assets in the performance of this contract. As a result, each On Site Store location is charged a Corporate Allocation Expense which is calculated as a percentage of sales for each contract year. As such, there is not a supportive invoice for such expenses other than an annual allocation rate statement. This Corporate Allocation Expense allows NAPA to have fewer employees performing mundane or menial tasks such as paper work and filing at the On Site Store(s) allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations and maximizing on-site cost efficiency. Notwithstanding the foregoing, the Corporate Allocation Expenses that NAPA invoices to CUSTOMER shall not exceed \$37,500. annually at CUSTOMER's location; provided that in the event CUSTOMER's Product Costs are in excess of \$3,000,000, NAPA and CUSTOMER agree that they shall meet and in good faith negotiate a potential increase in Corporate Allocation Expenses above the annual cap.

(d) *Management Fee.* CUSTOMER shall be billed a Management Fee (as defined below) on a monthly basis in accordance with the terms below.

PRICING PLAN SUMMARY

NAPA Product Costs	Billed to CUSTOMER at Current NAPA Jobber Acquisition Cost
Non-NAPA Product Costs and Outside Purchases and Services	Billed to CUSTOMER at a 0% gross profit rate
Operational Costs	Billed to CUSTOMER at cost or at the current corporate annual allocation rate for those services performed by headquarter and corporate personnel.
Management Fee	Billed to CUSTOMER in accordance with the terms below
Net Profit Target	10% net profit for NAPA

NAPA Product Costs shall be billed to CUSTOMER at Current NAPA Jobber Acquisition Cost. Non-NAPA Product Costs and Outside Purchases/Services shall be set by NAPA to yield a gross profit of zero percent (0%). Operational costs will be charged to CUSTOMER at cost or at the current corporate annual allocation rate for those services performed by headquarter and corporate personnel, with all such charges for Operational Costs to be included in CUSTOMER's monthly billing statement. CUSTOMER will be billed at the end of each month for operational costs on an "in arrears" basis.

CUSTOMER shall pay to NAPA on a monthly basis a management fee equal to ten percent (10%) of the Total Monthly Net Sales (as defined below) during the preceding month (the "Management Fee"). For purposes hereof, "Total Monthly Net Sales" means the total dollar amount of all products (both NAPA and Non-NAPA) and outside purchases and services sold to the CUSTOMER during the preceding month at the costs set forth in the pricing plan summary above less purchase returns.

NAPA shall obtain three (3) price quotes for all non-NAPA brand parts exceeding \$3,000. The lowest quoted part, meeting specifications, shall be purchased for sale to the CUSTOMER upon written approval by the CUSTOMER's Fleet Superintendent, or his designee. For audit purposes, NAPA shall attach "3-bid Quote forms" with approval signatures to all invoices containing parts covered under the requirements of this paragraph.

CUSTOMER agrees to encumber sufficient funds necessary to cover the anticipated amount of all financial obligations owed to NAPA, including but not limited to, projected operational expenses, product to be purchased from NAPA, non-NAPA inventory buy-back, and agreed profit for the applicable state fiscal year. The parties agree to mutually work together to adjust the amount if such amount must be increased during the term of the contract. CUSTOMER retains the right to exercise the provisions of the City of Denton Standard Terms and Conditions attached hereto as Exhibit G if the governing body does not award funding for the contract.

The contract total for services shall not exceed an annual amount of \$4,000,000 for a total not-to-exceed amount of \$12,000,000 during the initial three (3) year term of this Agreement."

9. Insurance. Section 8(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

"(b) NAPA shall maintain during the term of this Agreement the insurance set forth in the insurance requirements attached hereto as Exhibit F. In addition, NAPA shall maintain personal property insurance during the term of this Agreement in an amount sufficient to cover any loss or damage to the Inventory and any other personal property owned by NAPA that is located at the On Site Store(s)."

10. Personnel. Section 10 of the Agreement is hereby deleted in its entirety and replaced with the following:

"**10. PERSONNEL.** NAPA and CUSTOMER shall attempt in good faith to mutually agree upon the identity of the persons that will be selected to staff the On Site Store(s). All of the assigned full-time personnel shall be ASE Certified Parts Specialists. NAPA shall select personnel with outstanding customer service skills to perform the services outlined in this Agreement. NAPA shall provide evidence of certificates or any other special training of personnel responsible for performing services outlined in this Agreement. All NAPA personnel shall obtain at least one (1) ASE Parts P1 or P2 Certification within nine (9) months from the Effective Date. In the event that CUSTOMER for any reason wishes to remove or replace any of the NAPA personnel in the On Site Store(s), the parties will attempt to resolve CUSTOMER's request by mutual agreement.

11. Choice of Law. Section 25 of the Agreement is hereby deleted in its entirety and replaced with the following:

"**25. CHOICE OF LAW, JURISDICTION, VENUE.** This Agreement shall be construed and interpreted under the laws of the State of Texas, and jurisdiction and

venue for any cause of action shall be in Denton County, Texas.”

12. City of Denton Standard Terms and Conditions. The Agreement is hereby amended to add a new Section 31 as follows:

“**31. CUSTOMER STANDARD TERMS AND CONDITIONS.** The City of Denton Standard Purchase Terms and Conditions are attached hereto as Exhibit G (the “CUSTOMER Terms and Conditions”). In the event of a conflict between any of the terms set forth in this Agreement and the CUSTOMER Terms and Conditions, the CUSTOMER Terms and Conditions shall control. In the CUSTOMER Terms and Conditions, NAPA shall be referred to as “Contractor” or “Supplier”, and CUSTOMER shall be referred to as the “City” or “Buyer”.”

13. Conflict. Except as hereby amended, the Agreement shall remain unchanged in full force and effect, and the Agreement remains enforceable against each of the parties and is hereby ratified and acknowledged by each of the parties. If there is any conflict between the terms and provisions of the Agreement and the terms and provisions of this Amendment, this Amendment shall control.

14. Counterparts. This Amendment 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.

15. Prohibition on Contracts with Companies Boycotting Israel. Supplier 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, Supplier certifies that Supplier’s signature provides written verification to the City that Supplier: (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.

16. 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, Supplier certifies that Supplier’s signature provides written verification to the City that Supplier, 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.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties hereto cause their hands and seals to be affixed by their duly-authorized representatives effective as of the date and year first above written.

NAPA:

GENUINE PARTS COMPANY

DocuSigned by:
Stu Kambury
By: 010A37EAF7E44DF...
Name: Stu Kambury
Title: DVP

CUSTOMER:

CITY OF DENTON

DocuSigned by:
Todd Hileman
By: E776C711BA0D454...
Name: Todd Hileman
Title: City Manager

EXHIBIT D
ASSIGNMENT

See attached.

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, GENUINE PARTS COMPANY, a Georgia corporation (hereinafter "Assignor"), hereby assigns, transfers, sets over and delivers to [JOBBER/POP, _____] (hereinafter "Assignee"), all of Assignor's rights, obligations and interest, including any options to renew or extend the contract term, in those certain location(s) as set forth below, as governed by the Integrated Supply Agreement dated _____ by and between Genuine Parts Company and [CUSTOMER] (the "Integrated Supply Agreement").

Location(s): _____

Assignee hereby accepts the assignment of the Integrated Supply Agreement, agrees to provide the services and perform all other obligations required to be performed by "NAPA" in said Integrated Supply Agreement at the times and in the manner set forth in said Integrated Supply Agreement, and shall be bound by all other terms, covenants and conditions of said Integrated Supply Agreement with regard to the location(s) set forth above, all with the same force and effect as if Assignee were originally named as "NAPA" therein.

CITY OF DENTON hereby consents to the above assignment of the Integrated Supply Agreement on the terms set forth herein.

The parties hereto agree that the assignment as set forth herein shall be effective as of midnight on _____.

IN WITNESS WHEREOF, the undersigned have set their hands this _____ day of _____, 20____.

ASSIGNOR:

ASSIGNEE:

GENUINE PARTS COMPANY

[JOBBER/POP]

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Agreed and acknowledged:

CITY OF DENTON

By: _____

Name: _____

Its: _____

EXHIBIT E

SOURCEWELL CONTRACT

On file at the purchasing agent office.

EXHIBIT F

INSURANCE REQUIREMENTS

See attached.

INSURANCE REQUIREMENTS AND WORKERS' COMPENSATION REQUIREMENTS

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

STANDARD PROVISIONS:

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

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

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of

more than one insured shall not operate to increase the insurer's limit of liability.

- ***Cancellation: The Contractor will endeavor to provide the City at least 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

[X] A. General Liability Insurance:

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

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

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

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

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

Automobile Liability Insurance:

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

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

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

Workers' Compensation Insurance

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

Owner's and Contractor's Protective Liability Insurance

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

Fire Damage Legal Liability Insurance

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

Professional Liability Insurance

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

Builders' Risk Insurance

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

Environmental Liability Insurance

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

Riggers Insurance

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

Commercial Crime

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

Additional Insurance

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

ATTACHMENT 1

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

A. Definitions:

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

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

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

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - 2. no later than seven days after receipt by the contractor, a new certificate of coverage

showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
 - 1. provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2. provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3. provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4. obtain from each other person with whom it contracts, and provide to the contractor:
 - a. a certificate of coverage, prior to the other person beginning work on the project; and
 - b. a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5. retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6. notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 7. Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

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

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

EXHIBIT G

CITY OF DENTON STANDARD PURCHASE TERMS AND CONDITIONS

See attached.

Standard Purchase Terms and Conditions

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

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

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

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

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

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

6. **DELIVERY TERMS AND TRANSPORTATION CHARGES:** All normally stocked, and locally available, items will be furnished FOB Destination, Prepaid and Allowed, and all non-stock items, non-locally available items, special/custom and emergency orders will be furnished FOB Destination, Prepaid and Added, which means that Contractor initially pays the freight and then adds the freight charges to its invoice to the City for reimbursement.

7. **RIGHT OF INSPECTION AND REJECTION:** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City

has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

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

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

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

10. WORKFORCE

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

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property.

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

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

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

Immigration: The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who

will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA) enacted on September 30, 1996.

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

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

12. INVOICES:

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

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

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

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

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

The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable. A copy of the invoice shall be sent to Fleet Services on the same day. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received in Accounts Payable, whichever is later.

B. If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or

the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

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

D. The City may dispute any invoice submitted by Contractor, in accordance with provisions of Texas Government Code 2251.

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

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds.

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City. The City warrants and represents that it reasonably believes that it will have sufficient funds to make all payments due pursuant to the contract, and hereby covenants that it will do all things lawfully within its power to obtain, maintain, request and pursue funds from which the said payments may be made.

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

15. FINAL PAYMENT AND CLOSE-OUT:

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

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

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

under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

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

17. RIGHT TO AUDIT:

A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and two years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within ten (10) business days of written request. Further, the Contractor shall also require all Subcontractors, to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. Audit results will be based upon overcharges and undercharges being combined to determine the net impact. If the audit results in a net overcharge, Contractor will issue a check to the City equal to the net overcharge amount. The cost of the audit will be borne by the City.

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

18. SUBCONTRACTORS:

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

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

- i. Require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. Prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. Require Subcontractors to submit all invoices and applications for payments, including

any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

iv. Require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

v. Require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

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

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

E. For the avoidance of any doubt, the parties agree that the term 'Subcontractors' as used herein and throughout these terms and conditions and RFP shall specifically exclude all third party suppliers and manufacturers of the products sold hereunder and all third party delivery service providers (i.e. UPS and FedEx).

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

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

21. WARRANTY – DELIVERABLES: INTENTIONALLY DELETED.

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

A. The Contractor may not limit, exclude or disclaim the foregoing warranty. ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF CONTRACTOR ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the

Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: The City will not accept incomplete or non-conforming commodities or parts, and shall dispute any invoiced amount for such, in accordance with the provisions of Texas Government Code 2251.

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

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

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

27. TERMINATION FOR CAUSE: In the event of a default by either party, the other party shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the defaulting party, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the other party's reasonable satisfaction that such default does not, in fact, exist. Either party may pursue all remedies available to it at law or in equity, including without limitation, remedies at law in a court of competent jurisdiction, in the State of Texas. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. TERMINATION WITHOUT CAUSE: Either party shall have the right to terminate the Contract, in whole or in part, without cause any time upon ninety (90) calendar days' prior

written notice. Upon receipt of a notice of termination, both parties shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

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

30. **DELAYS:**

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

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

31. **INDEMNITY:**

A. Definitions:

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

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

THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM. To the extent permitted by contract or law, Contractor shall take all such steps as are necessary in order to assign or otherwise extend to the City the full benefit of any representations, warranties, indemnities and other protections that Contractor has received or to which Contractor is otherwise a beneficiary with respect to any product (including any representation, warranty, indemnity or other protection provided by the manufacturer of any product). Additionally, Contractor agrees to use commercially reasonable efforts to ensure that its contracts and other agreements with the manufacturers of any product permit the assignment of any such representations, warranties, indemnities and other protections to subsequent commercial purchasers of the applicable products (including the City).

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

A. General Requirements:

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods.
- ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:

City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209

vii. The “other” insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable for any of the indemnified claims set forth above and assumed by Contractor.

viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

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

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

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

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

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

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

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

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

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

36. NO WARRANTY BY CITY AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that Contractor shall provide the City good and indefeasible title to the deliverables.

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

38. OWNERSHIP AND USE OF DELIVERABLES: INTENTIONALLY DELETED.

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

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

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

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

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

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

45. **ASSIGNMENT-DELEGATION:** The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted

assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

46. **WAIVER:** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

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

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

49. **DISPUTE RESOLUTION:**

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

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative

Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

50. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City or Contractor to seek and secure injunctive relief from any competent authority as contemplated herein.

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

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

- | |
|---------------------------|
| New Year's Day (observed) |
| MLK Day |
| Memorial Day |
| 4 th of July |
| Labor Day |
| Thanksgiving Day |
| Day After Thanksgiving |
| Christmas Eve (observed) |
| Christmas Day (observed) |
| New Year's 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 his authorized designee.

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

54. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

55. EQUAL OPPORTUNITY

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

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

56. BUY-AMERICAN ACT-SUPPLIES: INTENTIONALLY DELETED. The parties agree that Contractor will not be required to comply with the requirements of the Buy-American Act under this Contract.

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

59. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes will be passed on to the City and included in the Corporate Allocation Expenses for reimbursement.

60. 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).

61. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The contractor shall comply with all applicable State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i)

§36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

62. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance

coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

63. 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.

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

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

66. 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.

67. 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.

68. RECORDS RETENTION: The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of two (2) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Exhibit H

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 I

SAMPLE PROFIT AND LOSS STATEMENT

See attached.



INVOICE

Genuine Parts Co
dba- NAPA Auto Parts

635 Freeport Parkway
Coppell Texas 75019

IBS Operational Expense Invoice

Sold to: City of Denton IBS
Date : October 15, 2019
Invoice No: 471 1909

Account # : City of Denton Bill Back Account

Description of Billing:

Sep-19 OPERATIONAL EXPENSE FOR PARTS DEPARTMENT \$ 59,854

Note: See attached Summary detail
Remit payments to: Genuine Parts Company
dba- NAPA Auto Parts
P.O. Box 848033
Dallas TX 75284-8033

IBS Expense Summary

Disclaimer- Individual Line item values stated in dollars, Section totals rounded to dollars from original values

City of Denton IBS	CURRENT	% TO
Sep-19	MONTH	SALES
Customer Part Purchases	\$281,188.42	100.00%
Cost of Goods to NAPA	\$281,542.30	100.13%
Gross Markup Margin	(\$353.88)	-0.13%
Management/Admin Expenses (Corporate Allocations)	\$3,514.85	1.25%
Manager/Counter Salaries	\$18,283.16	6.50%
Employee Pension/401K	\$1,265.35	0.45%
Group Insurance/Benefits Other	\$2,246.47	0.80%
Workers Comp Insurance	\$0.00	0.00%
Payroll Taxes(Fed, State, Local)	\$1,334.31	0.47%
Total IBS Payroll Expenses	\$23,129.29	8.23%
Delivery Truck Insurance	\$355.20	0.13%
Delivery Maintenance/Gas	\$824.60	0.29%
Truck Payment	\$100.00	0.04%
Store Expenses	\$298.15	-0.11%
Computers and Support Equipment	\$627.48	0.22%
Taxes - Not Income	\$1,018.09	0.36%
Freight and Postage	\$1,044.80	-0.73%
Insurance	\$433.97	0.15%
Training	\$35.00	0.01%
Total IBS Misc Expenses	\$4,737.29	0.37%
Total Expenses	\$31,381.43	9.85%
Gross Margin Less Expenses	(\$31,735.31)	-9.98%
Miscellaneous Adjustments	\$0.00	0.00%
IBS Management Fee	\$59,854.15	19.73%
NAPA Return on Investment	\$28,118.84	10.00%

Exhibit J

CONFLICT OF INTEREST QUESTIONNAIRE -	FORM CIQ
For vendor or other person doing business with local governmental entity	

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

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

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

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

1	Name of vendor who has a business relationship with local governmental entity. GENUINE PARTS COMPANY dba NAPA AUTO PARTS
----------	---

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 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. Stu Kambury
----------	---

Name of Officer

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

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

Yes No

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

Yes No

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

Yes No

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

None

4	<input checked="" type="checkbox"/> I have no Conflict of Interest to disclose.
----------	--

5	<table style="width: 100%;"> <tr> <td style="width: 60%;"> <p>DocuSigned by: <i>Stu Kambury</i></p> <p>010A37EAF7E44DF... ng business with the governmental entity</p> </td> <td style="width: 40%; text-align: right; vertical-align: bottom;"> <p>12/31/2019</p> <p>_____</p> <p>Date</p> </td> </tr> </table>	<p>DocuSigned by: <i>Stu Kambury</i></p> <p>010A37EAF7E44DF... ng business with the governmental entity</p>	<p>12/31/2019</p> <p>_____</p> <p>Date</p>
<p>DocuSigned by: <i>Stu Kambury</i></p> <p>010A37EAF7E44DF... ng business with the governmental entity</p>	<p>12/31/2019</p> <p>_____</p> <p>Date</p>		

Certificate Of Completion

Envelope Id: 68EBD19D1638471EBADFF888A81056DC	Status: Completed
Subject: Please DocuSign: City Council Contract 7136-Genuine Parts Company dba NAPA Auto Parts	
Source Envelope:	
Document Pages: 65	Signatures: 10
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Crystal Westbrook
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	crystal.westbrook@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

Status: Original	Holder: Crystal Westbrook	Location: DocuSign
12/31/2019 2:04:39 PM	crystal.westbrook@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Buyer City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	Completed Using IP Address: 129.120.6.150	Sent: 12/31/2019 2:24:56 PM Viewed: 12/31/2019 2:25:08 PM Signed: 12/31/2019 2:26:19 PM

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 12/31/2019 2:26:24 PM Viewed: 12/31/2019 2:54:13 PM Signed: 12/31/2019 2:55:08 PM
---	---	---

Mack Reinwand mack.reinwand@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 12/31/2019 2:55:13 PM Viewed: 12/31/2019 2:55:31 PM Signed: 12/31/2019 3:05:55 PM
---	--	---

Stu Kambury skambury@yahoo.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 107.77.198.8 Signed using mobile	Sent: 12/31/2019 3:06:00 PM Resent: 12/31/2019 3:15:14 PM Viewed: 12/31/2019 3:54:53 PM Signed: 12/31/2019 3:59:39 PM
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Electronic Record and Signature Disclosure:
Accepted: 12/31/2019 3:54:53 PM
ID: 1ad3979f-df20-4c1b-8fef-65935e5e9ec6

Signer Events	Signature	Timestamp
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ethan cox
ethan.cox@cityofdenton.com
Director of Public Works
Security Level: Email, Account Authentication (None)

DocuSigned by:

A83AA619E7314D7...
Signature Adoption: Pre-selected Style
Using IP Address: 129.120.6.150

Sent: 12/31/2019 3:59:45 PM
Viewed: 1/2/2020 9:48:18 AM
Signed: 1/2/2020 9:48:45 AM

Electronic Record and Signature Disclosure:

Accepted: 8/7/2018 4:24:18 PM
ID: feebacc3-151e-47bb-af6d-be8889ffc35

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

Completed

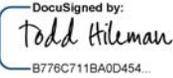
Using IP Address: 129.120.6.150

Sent: 1/2/2020 9:48:51 AM
Viewed: 1/28/2020 4:00:12 PM
Signed: 1/28/2020 4:01:37 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Todd Hileman
Todd.Hileman@cityofdenton.com
City Manager
City of Denton
Security Level: Email, Account Authentication (None)

DocuSigned by:

B776C711BA0D454...
Signature Adoption: Pre-selected Style
Using IP Address: 107.77.197.132
Signed using mobile

Sent: 1/28/2020 4:01:41 PM
Viewed: 1/28/2020 4:19:26 PM
Signed: 1/28/2020 4:20:48 PM

Electronic Record and Signature Disclosure:

Accepted: 7/25/2017 11:02:14 AM
ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21

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

DocuSigned by:

1C5CA8C5E175493...
Signature Adoption: Pre-selected Style
Using IP Address: 129.120.6.150

Sent: 1/28/2020 4:20:52 PM
Viewed: 1/28/2020 4:29:12 PM
Signed: 1/28/2020 4:30:07 PM

Electronic Record and Signature Disclosure:

Accepted: 1/28/2020 4:29:12 PM
ID: 6b98bbfe-79a2-416a-9158-2fee3435ee9b

Person Signer Events	Signature	Timestamp
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Editor Deliver Events	Status	Timestamp
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Agent Deliver Events	Status	Timestamp
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Intermediar Deliver Events	Status	Timestamp
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Certified Deliver Events	Status	Timestamp
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Car on Cop Events	Status	Timestamp
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Cheyenne Defee
cheyenne.defee@cityofdenton.com
Contract Administrator
City of Denton
Security Level: Email, Account Authentication (None)

COPIED

Sent: 12/31/2019 2:26:24 PM

Electronic Record and Signature Disclosure:

Carion Cop Events	Status	Timestamp
Not Offered via DocuSign		
<p>Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/2/2020 9:48:51 AM
<p>Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/28/2020 4:01:41 PM Viewed: 1/28/2020 4:06:08 PM
<p>Zolaina Parker Zolaina.Parker@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/28/2020 4:01:41 PM
<p>Terry Kader terry.kader@cityofdenton.com Fleet Services Superintendent City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/28/2020 4:30:11 PM Viewed: 1/29/2020 7:12:49 AM

Fitness Events	Signature	Timestamp
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Motor Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	1/28/2020 4:30:11 PM
Certified Delivered	Security Checked	1/28/2020 4:30:11 PM
Signing Complete	Security Checked	1/28/2020 4:30:11 PM
Completed	Security Checked	1/28/2020 4:30:11 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

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

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

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- 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.

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