City of Denton

Meeting Agenda

Public Utilities Board

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

Monday, November 17, 2025 | **9:00 AM** | **Council Work Session Room**

REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD

Citizens will be able to participate in the following way:

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

After determining that a quorum is present, the Public Utilities Board of the City of Denton, Texas will convene in a Regular Meeting on Monday, November 17, 2025, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

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

2. CONSENT AGENDA

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

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

A. PUB25-203 Consider recommending adoption of an ordinance of the City of Denton, Texas considering all matters incident and related to the issuance, sale and delivery of up

to $300,000,000 in principal amount of "City of Denton Utility System Revenue Refunding Bonds, Series 2026"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date.

Attachments: Exhibit 1. Agenda Information Sheet

Exhibit 2. Ordinance

B. PUB25-204 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Biggs & Mathews Environmental, Inc., for Cell 6 Construction Quality Assurance Services for the Solid Waste and Recycling Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8525-011 - Professional Services Agreement for assurance services awarded to Biggs & Mathews Environmental, Inc., in the not-to-exceed amount of $245,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance and Contract

C. PUB25-205 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Wärtsilä North America Inc., for cylinder gas admission valves for the Denton Energy Center, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8825 - awarded to Wärtsilä North America Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,415,582.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance

D. PUB25-206 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Wärtsilä North America Inc., for the cylinder head valve replacement overhaul for the Denton Energy Center, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8826 - awarded to Wärtsilä North America Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $5,852,615.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance

E. PUB25-207 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Roll-Offs of America, Inc. dba Roll Offs USA, for the purchase of steel refuse and recycling containers for the Solid Waste Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8885 - awarded to Roll-Offs of America, Inc. dba Roll Offs USA, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $2,666,500.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Pricing Evaluation

Exhibit 3 - Ordinance and Contract

F. PUB25-210 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Brandon & Clark, Inc., for motor and blower parts, repair, services, and rebuild of motors and blowers at the Denton Energy Center, Water Production and Reclamation facilities; providing for the expenditure of funds therefor; and providing an effective date (RFP 8818 - awarded to Brandon & Clark, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,457,500.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Pricing Evaluation

Exhibit 3 - Ordinance and Contract

G. PUB25-211 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Smith Pump Company, Inc., for pump parts, repair, services and rebuild of pumps for the Water Production facilities; providing for the expenditure of funds therefor; and providing an effective date (RFP 8818 - awarded to Smith Pump Company, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $600,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Pricing Evaluation

Exhibit 3 - Ordinance and Contract

H. PUB25-212 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Xylem Water Solutions U.S.A., Inc., for the Ray Roberts Water Treatment Plant - Ozone Generator Programmable Logic Controller Upgrades for Water Production, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body;

providing for the expenditure of funds therefor; and providing an effective date (File 8841 - awarded to Xylem Water Solutions U.S.A., Inc., in the not-to-exceed amount of $900,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Ordinance and Contract

I. PUB25-213 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Professional Services Agreement between the City of Denton and Freese and Nichols, Inc., amending the contract approved by City Council on October 22, 2024, in the not-to-exceed amount of $21,000,000.00; said first amendment to extend the required pilot study for the Ray Roberts Water Treatment Plant Expansion Project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-029 - providing for an additional first amendment expenditure amount not-to-exceed $184,000.00, with the total contract amount not-to-exceed $21,184,000.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Original Ordinance and Contract

Exhibit 3 - Ordinance and Amendment 1

J. PUB25-214 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Open Systems International, Inc., amending the contract approved by City Council on September 21, 2021, in the not to exceed amount of $1,500,000.00, said amendment to provide the renewal of maintenance, support, and upgrade services of OSI Monarch for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (File 7718 - providing for an additional first amendment expenditure amount not-to-exceed $193,973.00, with the total contract amount not-to-exceed $1,693,973.00).

Attachments: Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Original Ordinance and Contract

Exhibit 3 - Ordinance and Amendment 1

K. PUB25-215 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Cintas Corporation No. 2, amending the contract approved by City Council on September 14, 2021, in the not-to-exceed amount of $2,153,000.00; said first amendment to continue to provide uniforms and accessories rentals for all City of Denton Departments; providing for the expenditure of funds therefor; and providing an effective date (File 7738 - providing for an additional first amendment expenditure amount not-to-exceed $538,250.00, with the total contract amount not-to-exceed $2,691,250.00).

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

L. PUB25-216 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with SwiftComply US OpCo Inc., for compliance tracking software for the Environmental Services and Sustainability, Denton Water Utilities, and Street Operations Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8850 - awarded to SwiftComply US OpCo Inc., in the five (5) year not-to-exceed amount of $92,028.00).

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

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB25-218 Consider approval of the October 27, 2025 minutes.

Attachments: 10.27.25 PUB Minutes

B. PUB25-208 Consider recommending adoption of an ordinance of the City of Denton, Texas authorizing the expenditure of funds for the payment of wholesale transmission charges in the total amount of $10,803,259.00; and providing an effective date.

Attachments: Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Ordinance
Exhibit 3-Presentation

C. PUB25-219 Management Reports
1. Future Agenda Items
2. New Business Action Items

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

4. CONCLUDING ITEMS

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

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (https://tx-denton.civicplus.com/242/Public-Meetings-Agendas) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on November 10, 2025, in advance of the three (3) business day posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

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OFFICE OF THE CITY SECRETARY

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

City of Denton

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

DEPARTMENT: **Finance**

ACM: **Christine Taylor**

DATE: **November 17, 2025**

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, Texas considering all matters incident and related to the issuance, sale and delivery of up to $300,000,000 in principal amount of "City of Denton Utility System Revenue Refunding Bonds, Series 2026"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date.

BACKGROUND

The Utility System Extendable Commercial Paper (UECP) program established in 2021 requires an annual adoption of a Utility System Revenue Refunding Bond Ordinance. If needed, the refunding bonds sold would be used to pay off any maturing short-term extendable commercial paper and convert the debt to long-term financing.

Commercial paper notes cannot have a maturity that is later than the 270th day after the date on which the paper is initially issued. This Ordinance is an integral part of the UECP program because it provides delegated authority that allows refunding bonds to be issued, within certain parameters, in the event that commercial paper is issued and cannot otherwise be retired or defeased by the 270th day.

By doing so, City staff will be authorized to execute the sale without additional Council action. Once the exact terms of the transaction are determined, staff will provide the City Council with additional information in an informal staff report. This ordinance will give staff the flexibility to sell revenue refunding bonds to pay off the commercial paper outside of the City's normal financing routine should it be necessary.

One benefit of adopting this refunding ordinance is establishing the authority to execute the sale of long-term debt quickly, avoiding additional costs of step-up rates by not having to extend the commercial paper term. Another benefit is rating agencies view the refunding ordinance as a positive measure that ensures the City has a quick and viable means of paying off maturing commercial paper. This measure will assist in maintaining a desirable credit rating on the commercial paper. A third benefit is potential investors view the refunding ordinance as a positive measure that increases confidence in the investment.

The parameters ordinance sets the following requirements in order to complete the sale of the revenue bonds.

(i) the aggregate original principal amount of the Bonds shall not exceed $300,000,000;
(ii) the maximum stated maturity of the Bonds shall not exceed 30 years from the date of issuance;

(iii) the Bonds shall bear interest at a fixed rate, and the net effective interest rate on the Bonds shall not exceed the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Issuer in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, as amended);

(iv) the delegation made hereby shall expire if not exercised by the Pricing Officer through execution of a Pricing Certificate on or prior to December 2, 2026; and

(v) on or prior to delivery, the Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest categories for long-term obligations.

RECOMMENDATION

Staff recommends moving forward with the annual refunding ordinance approval by the City Council.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The required annual adoption of the UECP was last approved by City Council on December 3, 2024 (Ord 24-2199).

EXHIBITS

1. Agenda Information Sheet
2. Ordinance

Respectfully submitted:
Matt Hamilton
Assistant Director of Finance

Prepared by
Randee Klingele
Treasury Manager

ORDINANCE NO. 25-____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS CONSIDERING ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE AND DELIVERY OF UP TO $300,000,000 IN PRINCIPAL AMOUNT OF "CITY OF DENTON UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2026"; AUTHORIZING THE ISSUANCE OF THE BONDS; DELEGATING THE AUTHORITY TO CERTAIN CITY OFFICIALS TO EXECUTE CERTAIN DOCUMENTS RELATING TO THE SALE OF THE BONDS; APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING TO SAID BONDS; ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, defined terms used in this Ordinance shall have the meaning given said terms in Section 1 of this Ordinance, unless otherwise indicated herein; and

WHEREAS, the City of Denton (the "*City*" or the "*Issuer*") has heretofore issued its City of Denton Utility System Revenue Bonds, Series 2017 (the "*Series 2017 Bonds*"), its City of Denton Utility System Revenue Refunding Bonds, Taxable Series 2021 (the "*Series 2021 Bonds*"), its City of Denton Utility System Revenue Note, Taxable Series 2024 (the "*Series 2024 Note*"), its City of Denton Utility System Revenue Bonds, Series 2024 (the "*Series 2024 Bonds*") and has authorized the issuance of its City of Denton Utility System Revenue Bonds, Series 2025 (the "*Series 2025 Bonds*" and, together with the Series 2017 Bonds, the Series 2021 Bonds, the Series 2024 Note and the Series 2024 Bonds, the "Existing Bonds"); and

WHEREAS, in the ordinances adopted by the City Council of the City authorizing the issuance of the Existing Bonds, the City reserved the right to issue revenue bonds on a parity with the Existing Bonds; and

WHEREAS, pursuant to an Ordinance Establishing the City of Denton Utility System Extendable Commercial Paper Financing Program and Authorizing Utility System Revenue Extendable Commercial Paper Notes, Series A, adopted on January 12, 2021, as amended by Ordinance No. 21-355 adopted on February 23, 2021 (the "*ECP Ordinance*"), the Issuer has authorized to be outstanding the following described obligations:

> City of Denton Utility System Revenue Extendable Commercial Paper Notes, Series A (Tax-Exempt) and City of Denton Utility System Revenue Extendable Commercial Paper Notes, Series A (Taxable), in the aggregate original principal amount not to exceed $300,000,000 at any time (collectively, the "*ECP Series A Notes*"); and

WHEREAS, the Issuer now desires to refund all or part of the ECP Series A Notes (the "*Eligible Refunded Notes*," and those Eligible Refunded Notes designated by the Pricing Officer in a Pricing Certificate, each as defined below, to be refunded are herein referred to as the "*Refunded Notes*"; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("*Chapter 1207*") authorizes the Issuer to issue refunding bonds and to deposit the proceeds from the sale thereof, together with any other available funds or resources, directly with a paying agent for the Refunded Notes or a trust company or commercial bank that does not act as a depository for the Issuer and is named in these proceedings, and such deposit, if made before the payment dates of the Refunded Notes, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Notes; and

WHEREAS, Chapter 1207 further authorizes the Issuer to enter into an escrow or similar agreement with such paying agent for the Refunded Notes or trust company or commercial bank with respect to the

safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the Issuer and such paying agent or trust company or commercial bank may agree; and

WHEREAS, the issuance of the Bonds and the application of the proceeds of the Bonds to refund the Refunded Notes, which consist of extendable commercial paper notes, makes it impracticable to determine the maximum amount by which the aggregate amount of payments to be made under the Bonds exceeds the aggregate amount of payments that would have been made under the terms of the Refunded Notes for purposes of Section 1207.008(a)(2) of Chapter 1207; and

WHEREAS, the City Council hereby finds and declares a public purpose and it is in the best interests of the Issuer to refund the Refunded Notes in accordance with this Ordinance, with the terms of any series of Bonds issued to be included in a Pricing Certificate to be executed by the Pricing Officer, all in accordance with the provisions of Section 1207.007 of Chapter 1207 and Chapter 1371, Texas Government Code, as amended ("*Chapter 1371*"); and

WHEREAS, all the Refunded Notes mature or are subject to redemption prior to maturity within 20 years of the date of the bonds hereinafter authorized; and

WHEREAS, the bonds hereinafter authorized to be issued are to be issued, sold and delivered pursuant to the general laws of the State of Texas, including Texas Government Code Chapters 1207, 1502 and 1371, as amended, and the Issuer's Home Rule Charter; and

WHEREAS, it is officially found, determined, and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Ordinance, was given, all as required by the applicable provisions of Texas Government Code, Chapter 551; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. DEFINITIONS.

The defined terms in recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

"*Accountant*" means an independent certified public accountant or accountants or a firm of independent certified public accountants, in either case, with demonstrated expertise and competence in public accountancy.

"*Additional Senior Lien Obligations*" means bonds, notes, contractual obligations or other Debt which the Issuer reserves the right to issue or enter into, as the case may be, in the future under the terms and conditions provided in Section 17 and which obligations are equally and ratably secured solely by a first lien on and pledge of the Pledged Revenues on a parity with the Bonds and other Senior Lien Obligations.

"*Amortization Installment*" means, with respect to Senior Lien Obligations issued as Term Bonds, each mandatory sinking fund redemption of such Term Bonds (whether prior to maturity or at maturity), provided that the total Amortization Installments for such Term Bonds shall be sufficient to provide for retirement of the aggregate principal amount of such Term Bonds.

"*Annual Debt Service Requirements*" means, as of the date of calculation, the principal of and interest on all Senior Lien Obligations coming due at Maturity or Stated Maturity (or that could come due on demand of the owner thereof or other demand conditioned upon default by the Issuer on such Debt, or be payable in

respect of any required purchase of such Debt by the Issuer) in such Year, and, for such purposes, any one or more of the following rules shall apply at the election of the Issuer:

(1) Balloon Debt. If the principal (including the accretion of interest resulting from original issue discount or compounding of interest) of any series or issue of Funded Debt, except Term Bonds, due (or payable in respect of any required purchase of such Funded Debt by the Issuer) in any Year either is equal to at least 25% of the total principal (including the accretion of interest resulting from original issue discount or compounding of interest) of such Funded Debt or exceeds by more than 50% the greatest amount of principal of such series or issue of Funded Debt due in any preceding or succeeding Year (such principal due in such Year for such series or issue of Funded Debt being referred to herein and throughout this Ordinance as "*Balloon Debt*"), the amount of principal of such Balloon Debt taken into account during any Year shall be equal to the debt service calculated using the original principal amount of such Balloon Debt amortized over the Term of Issue on a level debt service basis at an assumed interest rate equal to the rate borne by such Balloon Debt on the date of calculation;

(2) Consent Sinking Fund. In the case of Balloon Debt, if a Designated Financial Officer shall deliver to the Issuer a certificate providing for the retirement of (and the instrument creating such Balloon Debt shall permit the retirement of), or for the accumulation of a sinking fund for (and the instrument creating such Balloon Debt shall permit the accumulation of a sinking fund for), such Balloon Debt according to a fixed schedule stated in such certificate ending on or before the Year in which such principal (and premium, if any) is due, then the principal of (and, in the case of retirement, or to the extent provided for by the sinking fund accumulation, the premium, if any, and interest and other debt service charges on) such Balloon Debt shall be computed as if the same were due in accordance with such schedule, provided that this clause (2) shall apply only to Balloon Debt for which the installments previously scheduled have been paid or deposited to the sinking fund established with respect to such Debt on or before the times required by such schedule; and provided further that this clause (2) shall not apply where the Issuer has elected to apply the rule set forth in clause (1) above;

(3) Term Bonds. The principal of Term Bonds shall be considered as maturing in accordance with the Amortization Installments set forth in the ordinance authorizing same;

(4) Prepaid Debt. Principal of and interest on Senior Lien Obligations, or portions thereof, shall not be included in the computation of the Annual Debt Service Requirements for any Year for which such principal or interest are payable from funds on deposit or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust) with a financial institution acting as fiduciary with respect to the payment of such Debt;

(5) Variable Rate. As to any Senior Lien Obligations that bear interest at a variable interest rate which cannot be ascertained at the time of calculation of the Annual Debt Service Requirement then, at the option of the Issuer, either (A) an interest rate equal to the average rate borne by such Senior Lien Obligations (or by comparable debt in the event that such Senior Lien Obligations has not been Outstanding during the preceding 24 months) for any 24 month period ending within 30 days prior to the date of calculation, or (B) an interest rate equal to the 30-year Revenue Bond Index (as most recently published in The Bond Buyer), shall be presumed to apply for all future dates, unless such index is no longer published in The Bond Buyer, in which case an index of revenue bonds with maturities of at least 20 years which is published in a financial newspaper or journal with national circulation may be used for this purpose (if two series of Senior Lien Obligations which bear interest at variable interest rate, or one or more maturities within a series, of equal par amounts, are issued simultaneously with inverse floating interest rates providing a composite fixed interest rate for such

Senior Lien Obligations taken as a whole, such composite fixed rate shall be used in determining the Annual Debt Service Requirement with respect to such Senior Lien Obligations);

(6) Committed Take Out. If the Issuer has entered into a Credit Agreement constituting a binding commitment within normal commercial practice to discharge any of its Funded Debt at its Maturity or Stated Maturity (or, if due on demand, at any date on which demand may be made) or to purchase any of its Funded Debt at any date on which such Debt is subject to required purchase, all under arrangements whereby the Issuer's obligation to repay the amounts advanced for such discharge or purchase constitutes Funded Debt, then the portion of the Funded Debt committed to be discharged or purchased shall be excluded from such calculation and the principal of and interest on the Funded Debt incurred for such discharging or purchase that would be due in the Year for which the calculation is being made, if incurred at the Stated Maturity or purchase date of the Funded Debt to be discharged or purchased, shall be added;

(7) Credit Agreement Payments. If the Issuer has entered into a Credit Agreement in connection with an issue of Debt, payments due under the Credit Agreement (other than payments for fees and expenses), for either the Issuer or the Credit Provider, shall be included in such calculation, except to the extent that the payments are already taken into account under (1) through (6) above and any payments otherwise included above under (1) through (6) which are to be replaced by payments under a Credit Agreement, from either the Issuer or the Credit Provider, shall be excluded from such calculation; and

(8) Guarantee. In the case of any guarantee, as described in clause (2) of the definition of Debt, no obligation will be counted if the Issuer does not anticipate in its annual budget that it will make any payments on the guarantee. If, however, the Issuer is making payments on a guarantee or anticipates doing so in its annual budget, such obligation shall be treated as Senior Lien Obligations and calculations of annual debt service requirements with respect to such guarantee shall be made assuming that the Issuer will make all additional payments due under the guaranteed obligation. If the entity whose obligation is guaranteed cures all defaults and the Issuer no longer anticipates making payments under the guarantee, the guaranteed obligations shall not be included in the calculation of Annual Debt Service Requirements.

With respect to any calculation of historic data, only those payments actually made in the subject period shall be taken into account in making such calculation and, with respect to prospective calculations, only those payments reasonably expected to be made in the subject period shall be taken into account in making the calculation.

"*Average Annual Debt Service Requirements*" means that average amount which, at the time of computation, will be required to pay the Annual Debt Service Requirements when due (either at Stated Maturity or mandatory redemption) and derived by dividing the total of such Annual Debt Service Requirements by the number of Years then remaining before Stated Maturity of such Senior Lien Obligations. For the purposes of this definition, a fractional period of a Year shall be treated as an entire Year.

"*Bond*," "*Bonds*" and "*Series 2026 Bonds*" have the meaning assigned to such terms in Section 2(c).

"*Capital Addition*" means the construction or acquisition of improvements or rights that will increase the capacity of the System, or an interest therein, and which shall become a part of the System.

"*City Council*" means the City Council of the Issuer.

"*Code*" means the Internal Revenue Code of 1986, as amended, and the applicable regulations and rules promulgated in connection therewith.

"*Consulting Engineer*" means an independent engineer or firm employed by the Issuer to perform and carry out the duties imposed on such engineer or firm by this Ordinance and having a favorable reputation nationally for skill and experience in the engineering of waterworks systems, wastewater systems, electric utility systems or drainage systems of comparable size and character as those forming parts of the System.

"*Credit Agreement*" means, collectively, a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase Senior Lien Obligations, purchase or sale agreement, Interest Rate Management Agreement, or commitments or other contracts or agreements authorized, recognized and approved by the Issuer as a Credit Agreement in connection with the authorization, issuance, security, or payment of Senior Lien Obligations and on a parity therewith.

"*Credit Provider*" means any bank, financial institution, insurance company, surety bond provider, or other entity which provides, executes, issues, or otherwise is a party to or provider of a Credit Agreement.

"*Debt*" means:

(1) all indebtedness payable from Pledged Revenues incurred or assumed by the Issuer for borrowed money (including indebtedness arising under Credit Agreements) and all other financing obligations of the System payable from Pledged Revenues that, in accordance with generally accepted accounting principles, are shown on the liability side of a balance sheet; and

(2) all other indebtedness payable from Pledged Revenues for borrowed money or for the acquisition, construction or improvement of property or capitalized lease obligations pertaining to the System that is guaranteed, directly or indirectly, in any manner by the Issuer, or that is in effect guaranteed, directly or indirectly, by the Issuer through an agreement, contingent or otherwise, to purchase any such indebtedness or to advance or supply funds for the payment or purchase of any such indebtedness or to purchase property or services primarily for the purpose of enabling the debtor or seller to make payment of such indebtedness, or to assure the owner of the indebtedness against loss, or to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether or not such property is delivered or such services are rendered), or otherwise.

For the purpose of determining Debt, there shall be excluded any particular Debt if, upon or prior to the Maturity thereof, there shall have been deposited with the proper depository (a) in trust the necessary funds (or investments that will provide sufficient funds, if permitted by the instrument creating such Debt) for the payment, redemption, or satisfaction of such Debt or (b) evidence of such Debt deposited for cancellation; and thereafter it shall not be considered Debt. No item shall be considered Debt unless such item constitutes indebtedness under generally accepted accounting principles applied on a basis consistent with the financial statements of the System in prior Years.

"*Defeasance Securities*" means any securities and obligations now or hereafter authorized by the laws of the State of Texas that are eligible to refund, retire or otherwise discharge obligations such as the Bonds.

"*Depository*" means one or more official depository banks of the Issuer.

"*DTC*" means The Depository Trust Company, New York, New York.

"*DTC Participant*" means securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"*Designated Financial Officer*" means the City Manager or the Assistant City Manager/Chief Financial Officer (including, in each case, the official succeeding to such position after a title change), or such other official of the Issuer so designated by the Issuer.

"*Electric System Fund*" means the special fund confirmed, established and maintained by and pursuant to the provisions of Sections 7 and 8.

"*Event of Default*" means an event as described in Section 28.

"*Funded Debt*" means all Senior Lien Obligations created or assumed by the Issuer that mature by their terms (in the absence of the exercise of any earlier right of demand), or that are renewable at the option of the Issuer to a date, more than one year after the original creation or assumption of such Debt by the Issuer.

"*Gross Revenues*" mean all revenues, income and receipts of every nature derived or received by the Issuer from the operation and ownership of the System, including the interest income from investment or deposit of money in any fund or account created by this Ordinance or maintained by the Issuer in connection with the System.

"*Initial Bonds*" has the meaning assigned to such term in Section 2(c).

"*Interest and Sinking Fund*" means the special fund created, established and maintained by and pursuant to the provisions of Sections 7 and 10.

"*Interest Rate Management Agreement*" means an agreement that provides for an interest rate transaction, including a swap, basis, forward, option, cap, collar, floor, lock, or hedge transaction, a similar transaction, or any combination of those types of transactions, now or hereafter authorized by the laws of the State of Texas, including, without limitation, Chapter 1371.

"*Issuer*" means the City of Denton, Texas.

"*Maturity*" means, when used with respect to any Debt, the date on which the principal of such Debt or any installment thereof becomes due and payable as therein provided, whether at the Stated Maturity thereof, or call for redemption, or otherwise.

"*Maximum Annual Debt Service Requirements*" means the greatest amount of Annual Debt Service Requirements scheduled to occur in any future Year or in the then current Year for the particular obligations for which such calculation is made.

"*Net Revenues*" mean all Gross Revenues remaining after deducting Operating Expenses.

"*Operating Expenses*" means the reasonable and necessary expenses of operation and maintenance of the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the Issuer, are necessary to keep the System in operation and render adequate service or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Senior Lien Obligations), and all payments under contracts for materials and services (including water supply contracts) provided to the Issuer that are required to enable the Issuer to render efficient service. The following shall never be considered as an Operating Expense:

(1) depreciation, (2) franchise fees paid to the Issuer or transferred to the general fund or other fund of the Issuer, and (3) return on investment payments made to the Issuer or transferred to the general fund or other fund of the Issuer.

"*Ordinance*" means this ordinance finally adopted by the City Council on December 2, 2025.

"*Outstanding*" means, when used with respect to Senior Lien Obligations, as of the date of determination, all Senior Lien Obligations theretofore delivered under this Ordinance and any ordinance authorizing other Senior Lien Obligations, except:

(1) Senior Lien Obligations theretofore cancelled and delivered to the Issuer or delivered to the paying agent/registrar for the Senior Lien Obligation for cancellation;

(2) Senior Lien Obligations deemed paid pursuant to the provisions of Section 22 or any comparable section of any ordinance authorizing Additional Senior Lien Obligations;

(3) Senior Lien Obligations upon transfer of or in exchange for and in lieu of which other Senior Lien Obligations have been authenticated and delivered pursuant to this Ordinance and any ordinance authorizing Additional Senior Lien Obligations; and

(4) Senior Lien Obligations under which the obligations of the Issuer have been released, discharged or extinguished in accordance with the terms thereof.

"*Paying Agent/Registrar*" means the paying agent/registrar for the Bonds, described in Section 4(a) and any successor thereto.

"*Permitted Investments*" means any security or obligation or combination thereof permitted under the Public Funds Investments Act, Chapter 2256, Texas Government Code, as amended, or other applicable law.

"*Pledged Revenues*" means

(1) the Net Revenues, plus

(2) any additional revenues, income, receipts, or other resources, including, without limitation, any grants, donations or income received or to be received from the United States Government, or any other public or private source, whether pursuant to an agreement or otherwise, which hereafter are pledged by the Issuer to the payment of the Senior Lien Obligations,

and excluding those revenues excluded from Gross Revenues or excluded from Net Revenues.

"*Pricing Certificate*" means the certificate of the Pricing Officer referenced in Section 3 to be executed and delivered in connection with the initial issuance of each Series of Bonds.

"*Pricing Officer*" means any one of the City Manager of the Issuer, the Assistant City Manager/Chief Financial Officer of the Issuer or the Director of Finance of the Issuer (including any person appointed to such position on an "acting" or "interim" basis).

"*Purchaser*" means the initial purchaser or purchasers of the Bonds.

"*Rate Stabilization Reserve*" means a rate stabilization reserve created, established and maintained by and pursuant to the provisions of Section 12 in the Electric System Fund, the Wastewater System Fund or the Water System Fund.

"*Rating Agency*" means any nationally recognized securities rating agency which has assigned, at the request of the Issuer, a rating to the Senior Lien Obligations.

"*Record Date*" means Record Date as defined in the FORM OF BOND.

"*Registered Owner*" or "*Registered Owners*" means the registered owner, whose name appears in the Registration Books, for any Senior Lien Obligation.

"*Registration Books*" means the books or records for the registration of the transfer, conversion and exchange of the Bonds kept by the Paying Agent/Registrar.

"*Reserve Credit Facility*" means (i) a policy of insurance or a surety bond, issued by an issuer of policies of insurance insuring the timely payment of debt service on governmental obligations, and (ii) a letter or line of credit issued by any financial institution, in each case meeting the requirements for such facility under any ordinance authorizing the issuance of Senior Lien Obligations that are to be secured by a debt service reserve fund.

"*Senior Lien Obligations*" means the Series 2017 Bonds, the Series 2021 Bonds, the Series 2024 Note, the Series 2024 Bonds, the Series 2025 Bonds, the Bonds and any Additional Senior Lien Obligations hereafter issued by the Issuer or obligations issued to refund any of the foregoing (as determined within the sole discretion of the City Council in accordance with applicable law) if issued in a manner that provides that the refunding bonds are payable from and equally and ratably secured by a first lien on and pledge of the Pledged Revenues.

"*Senior Lien Obligation Reserve Requirement*" means the amount or a manner of calculating the amount established by each ordinance authorizing the issuance of Senior Lien Obligations that are to be secured by a debt service reserve fund to be held and maintained on deposit therein.

"*Series*" or "*Series of Bonds*" means any designated series of Bonds issued pursuant to this Ordinance.

"*Series 2017 Bond Ordinance*" means the ordinance adopted by the City Council of the City on June 21, 2016 authorizing the issuance of the Series 2017 Bonds.

"*Special Project*" means any water, wastewater, electric, drainage or other facilities of any kind or other public improvement declared by the Issuer not to be part of the System, for which the costs of acquisition, construction and installation are paid from proceeds of Special Project Bonds, but only to the extent that and for so long as all or any part of the revenues or proceeds of which are or will be pledged to secure the payment or repayment of such costs of acquisition, construction and installation under such financing transaction.

"*Special Project Bonds*" means special revenue obligations of the Issuer which are not secured by the Pledged Revenues, but which are secured by and payable solely from liens on and pledges of any other revenues, sources, or payments, including, but not limited to, special contract revenues or payments received from the System, any other legal entity, or any combination thereof, in connection with a Special Project; and such revenues, sources or payments shall not be considered as or constitute Gross Revenues of the System,

unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such Special Project Bonds.

"*Special Record Date*" has the meaning assigned to such term in Section 4(d).

"*Stated Maturity*" means the annual principal payments of the Senior Lien Obligations payable on the respective dates set forth in the ordinances which authorized the issuance of such Senior Lien Obligations.

"*Subordinate Lien Obligations*" means any bonds, notes, contractual obligations or other Debt issued by the Issuer that are payable from or reasonably expected to be payable in whole from, and equally and ratably secured by a lien on and pledge of the Pledged Revenues, such pledge being subordinate and inferior to the lien on and pledge of the Pledged Revenues that are or will be pledged to the payment of any Senior Lien Obligations issued by the Issuer.

"*System*" means the Issuer's entire existing waterworks system, the Issuer's entire existing wastewater system, the Issuer's entire existing electric light and power system, and the Issuer's entire existing drainage system, together with all future extensions, improvements, enlargements, and additions thereto, and all replacements thereof; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not include any Special Projects which are hereafter acquired or constructed by the Issuer with the proceeds of Special Project Bonds.

"*System Funds*" means, collectively, the Electric System Fund, the Wastewater System Fund and the Water System Fund.

"*Tax-Exempt Bonds*" means any Bond, the interest on which is excludable from gross income for federal income tax purposes.

"*Taxable Bonds*" means any Bond, the interest on which is includable in gross income for federal income tax purposes.

"*Term Bonds*" means those Senior Lien Obligations (if any) so designated pursuant to the terms of the ordinance authorizing their issuance, which shall be subject to retirement by operation of mandatory sinking fund redemptions.

"*Term of Issue*" means with respect to any Balloon Debt, a period of time equal to the greater of (i) the period of time commencing on the date of issuance of such Balloon Debt and ending on the final maturity date of such Balloon Debt or (ii) thirty years.

"*Wastewater System Fund*" means the special fund confirmed, established and maintained by and pursuant to the provisions of Sections 7 and 8.

"*Water System Fund*" means the special fund confirmed, established and maintained by and pursuant to the provisions of Sections 7 and 8.

"*Year*" means the regular fiscal year used by the Issuer in connection with the operation of the System, currently ending on September 30 of each year, which may be any twelve consecutive month period established by the Issuer.

SECTION 2. RECITALS, AMOUNT, PURPOSE AND DESIGNATION OF THE BONDS.

(a) Recitals. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section.

(b) Amount; Purpose. The bonds of the Issuer are hereby authorized to be issued and delivered in one or more Series in the maximum aggregate principal amount (determined without regard to premium or discount affecting the sale price) of $300,000,000 for the public purpose of refunding the Refunded Notes , and to pay the costs associated with the issuance of the Bonds.

(c) Designation of the Bonds. Each bond issued pursuant to this Ordinance shall be designated: "CITY OF DENTON UTILITY SYSTEM REVENUE REFUNDING BOND, SERIES 2026" with each Series of Bonds having a letter designation following the year, starting with "A", and with such changes as designated by the Pricing Officer pursuant to Section 3. Initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, payable to the respective Registered Owners thereof (with the Initial Bond being made payable to the Purchaser as described in Section 27 hereof). The terms "*Bonds*" and "*Series 2026 Bonds*" as used herein shall mean and include collectively all bonds initially issued hereunder (the "*Initial Bonds*") and all substitute bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term "*Bond*" shall mean any of the Bonds. The Bonds shall be in the respective principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts, and shall bear interest to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

SECTION 3. DELEGATION TO PRICING OFFICER.

(a) As authorized by Section 1371.053 of Chapter 1371, a Pricing Officer is hereby authorized to act on behalf of the Issuer in selling and delivering each Series of the Bonds, determining which of the Eligible Refunded Notes shall be refunded, and carrying out the other procedures specified in this Ordinance, including, determining the date of sale of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment and record dates, the use of capitalized interest, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Issuer, as well as any mandatory sinking fund redemption provisions, whether any Series of Bonds will be secured by a debt service reserve fund and the amount of any Senior Lien Obligation Reserve Requirement, whether a Series will be issued as Tax-Exempt Bonds or Taxable Bonds, the authorized denominations of and the method for the calculation of interest for any Taxable Bonds and all other matters relating to the issuance, sale, and delivery of the Bonds and the refunding of the Refunded Notes, including without limitation establishing the redemption date for and effecting the redemption of Refunded Notes, approving modifications to this Ordinance and executing such instruments, documents and agreements as may be necessary with respect to the issuance of the Bonds, and obtaining municipal bond insurance for all or any portion of the Bonds (including in connection therewith the execution of any commitment agreements, membership agreements in mutual insurance companies, and other similar agreements) and providing for the terms and provisions thereof applicable to the Bonds, all of which shall be specified in the Pricing Certificate; provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed $300,000,000;

(ii) the maximum stated maturity of the Bonds shall not exceed 30 years from the date of issuance;

(iii) the Bonds shall bear interest at a fixed rate, and the net effective interest rate on the Bonds shall not exceed the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Issuer in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, as amended);

(iv) the delegation made hereby shall expire if not exercised by the Pricing Officer through execution of the Pricing Certificate on or prior to December 2, 2026; and

(v) on or prior to delivery, the Bonds shall be rated by a Rating Agency for municipal securities in one of the four highest categories for long-term obligations.

(b) In establishing the aggregate principal amount of a Series of Bonds, the Pricing Officer shall establish an amount not exceeding, in aggregate with any other Series of Bonds, the amount authorized in Subsection (a)(i) hereof, which shall be sufficient in amount to provide for the purposes for which the Series of Bonds are authorized and to pay costs of issuing the Bonds. Each Series of Bonds shall be sold with and subject to such terms as set forth in the Pricing Certificate for such Series.

SECTION 4. CHARACTERISTICS OF THE BONDS.

(a) Appointment of Paying Agent/Registrar. The Pricing Officer shall designate in the Pricing Certificate a bank to act as the Paying Agent/Registrar for the Bonds. A Pricing Officer is authorized and directed to execute and deliver in the name and under the corporate seal and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar in substantially the form presented at this meeting.

(b) Registration, Transfer, Conversion and Exchange. The Issuer shall keep or cause to be kept Registration Books at the corporate trust office of the Paying Agent/Registrar, and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the Issuer and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Bond or Bonds. Registration of assignments, transfers, conversions and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

(c) Authentication. Except as provided in subsection (g) of this Section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, resolutions, orders or other instruments need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of

any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(d) Payment of Principal and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds, and of all conversions and exchanges of Bonds, and all replacements of Bonds, as provided in this Ordinance. However, in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "*Special Record Date*") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(e) Payment to Registered Owner. Notwithstanding any other provision of this Ordinance to the contrary, the Issuer and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the Issuer to make payments of principal and interest pursuant to this Ordinance.

(f) Paying Agent/Registrar. The Issuer covenants with the registered owners of the Bonds that at all times while the Bonds are Outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(g) Substitute Paying Agent/Registrar. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a

written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar.

(h) Book-Entry Only System. The Bonds issued in exchange for the Bonds initially issued to the purchaser or purchasers specified herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof and the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in subsections (j) and (k) of this Section, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(i) Blanket Letter of Representations. The previous execution and delivery of the Blanket Letter of Representations with respect to obligations of the Issuer is hereby ratified and confirmed; and the provisions thereof shall be fully applicable to the Bonds. Notwithstanding anything to the contrary contained herein, while the Bonds are subject to DTC's Book-Entry Only System and to the extent permitted by law, the Letter of Representations is hereby incorporated herein and its provisions shall prevail over any other provisions of this Ordinance in the event of conflict.

(j) Bonds Registered in the Name of Cede & Co. With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Issuer and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(k) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

(l) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the representation letter of the Issuer to DTC.

(m) General Characteristics of the Bonds. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bonds to be payable only to the Registered Owners thereof, (ii) may and shall be redeemed prior to their scheduled maturities, (iii) may be transferred and assigned, (iv) may be converted and exchanged for other Bonds, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Bonds shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance (as modified in the Pricing Certificate). The Bonds initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in conversion of and exchange for any Bond or Bonds issued under this Ordinance the Paying Agent/Registrar shall execute the Paying Agent/registrar's Authentication Bond, in the FORM OF BOND set forth in this Ordinance.

(n) Cancellation of Initial Bonds. On the closing date, one Initial Bond representing the entire principal amount of a Series of the Bonds, payable in stated installments to the Purchaser or its designee, executed by manual or facsimile signature of the Mayor and Secretary of the Issuer, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such purchaser or its designee. Upon payment for such Initial Bond, the Paying Agent/Registrar shall cancel such Initial Bond and deliver to DTC on behalf of such purchaser one registered definitive Bond for each year of maturity of such Bonds, in the aggregate principal amount of all of the Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC. To the extent that the Paying Agent/Registrar is eligible to participate in DTC's FAST System, pursuant to an agreement between the Paying Agent/Registrar and DTC, the Paying Agent/Registrar shall hold the definitive Bonds in safekeeping for DTC.

SECTION 5. FORM OF BONDS. The form of the Bonds ("FORM OF BOND"), including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance, and with the FORM OF BOND to be modified pursuant to, and completed with information set forth in, the Pricing Certificate.

(a) FORM OF BOND.

NO. R-

UNITED STATES OF AMERICA
STATE OF TEXAS

PRINCIPAL AMOUNT
$_____

CITY OF DENTON
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2026

Interest Rate	Delivery Date	Maturity Date	CUSIP No.

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

ON THE MATURITY DATE specified above, the City of Denton, Texas (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above. The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from _____, _____ at the Interest Rate per annum specified above. Interest is payable on _____, ____ and semiannually on each _____ and _____ thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except, if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity, or upon the date fixed for its redemption prior to maturity, at the principal corporate trust office of _____, _____, _____, which is the "Paying Agent/Registrar" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the Issuer required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the _____ day of the month preceding each such date (the "Record Date") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

ANY ACCRUED INTEREST due at maturity or upon the redemption of this Bond prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for payment or redemption at the principal corporate trust office of the Paying Agent/Registrar. The Issuer covenants with the Registered Owner of this Bond that on or before each principal payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE for any payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday or day on

which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds dated _____, _____, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of $_____ for the public purpose of refunding the Refunded Notes, and to pay the costs associated with the issuance of the Bonds.

ON _____, or on any date thereafter, the Bonds of this series may be redeemed prior to their scheduled maturities, at the option of the Issuer, with funds derived from any available and lawful source, as a whole, or in part, and, if in part, the particular Bonds, or portions thereof, to be redeemed shall be selected and designated by the Issuer (provided that a portion of a Bond may be redeemed only in an integral multiple of $5,000), at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

[THE BONDS scheduled to mature on _____ in the years ____ and ____ (the "Term Bonds") are subject to scheduled mandatory redemption by the Paying Agent/Registrar by lot, or by any other customary method that results in a random selection, at a price equal to the principal amount thereof, plus accrued interest to the redemption date, out of moneys available for such purpose in the interest and sinking fund for the Bonds, on the dates and in the respective principal amounts, set forth in the following schedule:

Term Bond Maturity: _____, 20__		Term Bond Maturity: _____,20__	
Mandatory Redemption Date	Principal Amount	Mandatory Redemption Date	Principal Amount
February 15,20__	$_____	February 15,20__	$_____
February 15,20__	_____	February 15,20__	_____
February 15,20__	_____	February 15,20__	_____
February 15,20__ (maturity)	_____	February 15,20__ (maturity)	_____

The principal amount of Term Bonds of a stated maturity required to be redeemed on any mandatory redemption date pursuant to the operation of the mandatory sinking fund redemption provisions shall be reduced, at the option of the Issuer, by the principal amount of any Term Bonds of the same maturity which, at least 50 days prior to a mandatory redemption date (1) shall have been acquired by the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the Issuer at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase, or (3) shall have been redeemed pursuant to the optional redemption provisions and not theretofore credited against a mandatory redemption requirement.]

AT LEAST 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption, to the Registered Owner of each Bond to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the Registered Owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision

for such payment is made, all as provided above, the Bonds or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being Outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of $5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Ordinance.

IF AT THE TIME OF MAILING of notice of optional redemption there shall not have either been deposited with the Paying Agent/Registrar or legally authorized escrow agent immediately available funds sufficient to redeem all the Bonds called for redemption, such notice may state that it is conditional, and is subject to the deposit of the redemption moneys with the Paying Agent/Registrar or legally authorized escrow agent at or prior to the redemption date, and such notice shall be of no effect unless such moneys are so deposited on or prior to the redemption date. If such redemption is not effectuated, the Paying Agent/Registrar shall, within five days thereafter, give notice in the manner in which the notice of redemption was given that such moneys were not so received and shall rescind the redemption.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of any integral multiple of $5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of $5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of $5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the Issuer, resigns, or otherwise ceases to act as such, the Issuer has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

THE BONDS are special obligations of the Issuer payable solely from and equally secured by a lien on and pledge of the Pledged Revenues of the Issuer's System (as defined in the Ordinance). Reference is hereby made to the Bond Ordinance for a more complete statement of the covenants and provisions securing the payment of this Bond and the series of which it is one.

THE ISSUER EXPRESSLY RESERVES the right to issue further and additional special revenue obligations equally secured by a lien on and pledge of the Pledged Revenues of the Issuer's Utility System on a parity with the Bonds of this issue; provided, however, that any and all such additional Senior Lien Obligations may be issued only in accordance with and subject to the covenants, conditions, limitations and restrictions relating thereto which are set out and contained in the Bond Ordinance, to which reference is hereby made for more complete and full particulars. The Issuer has further reserved the right in the Bond Ordinance to issue Subordinate Lien Obligations and to finance Special Projects that are not part of the System and not payable from Pledged Revenues and for which all maintenance and operation expenses are payable from sources other than Pledged Revenues.

THE REGISTERED OWNER HEREOF shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation or from any sources whatsoever other than those described in the Bond Ordinance.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Bond have been performed, existed and been done in accordance with law.

THE ISSUER HAS RESERVED THE RIGHT to amend the Bond Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the Registered Owners of a majority in aggregate principal amount of the Outstanding Bonds.

BY BECOMING the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the Issuer, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the Issuer.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Issuer (or in the Mayor's absence, the Mayor Pro-Tem of the Issuer) and countersigned with the manual or facsimile signature of the Secretary of said Issuer, and has caused the official seal of the Issuer to be duly impressed, or placed in facsimile, on this Bond.

_____ _____

Secretary Mayor

(SEAL)

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE
(To be executed if this Bond is not accompanied by an executed Registration Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in

exchange for, a bond, bonds, or a portion of a bond or bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____.

_____
_____, _____
Paying Agent/Registrar

By: _____
Authorized Representative

(c) Form of Assignment.

ASSIGNMENT
(Please print or type clearly)

For value received, the undersigned hereby sells, assigns and transfers unto: _____

_____

Transferee's Social Security or Taxpayer Identification Number: _____

Transferee's name and address, including zip code: _____

_____

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____

_____, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____.

Signature Guaranteed:

_____
NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a securities transfer association recognized signature guarantee program.

_____
NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

(d) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Bond and that this Bond has been registered this day by me.

Witness my signature and seal this _____.

_____
Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) Initial Bond Insertions.

(i) The Initial Bonds shall be in the form set forth is paragraph (a) of this Section, except that:

A. immediately under the name of the Bond, the headings "Interest Rate" and "Maturity Date" shall both be completed with the words "As shown below" and "CUSIP No. _____" shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

"THE CITY OF DENTON, TEXAS (the "Issuer"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on _____ in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

Years	Principal Installments ($)	Interest Rates (%)

(Information for the Bonds from the Pricing Certificate to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from _____, ____ at the respective Interest Rate per annum specified above. Interest is payable on _____, ____, and semiannually on each _____ and _____ thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The Initial Bond shall be numbered "T-1."

SECTION 6. PLEDGE OF PLEDGED REVENUES.

(a) The Bonds are "Additional Senior Lien Obligations" as permitted by Section 17 of the Series 2017 Bond Ordinance; and it is hereby determined, declared and resolved that Sections 1, 6 through 17, 19, 20, 21, 28 and 30 of this Ordinance are supplemental to and cumulative of such sections in the Series 2017 Bond Ordinance.

(b) The Issuer hereby covenants and agrees that the Pledged Revenues are hereby irrevocably pledged to the payment and security of the Senior Lien Obligations, including the establishment and maintenance of the special funds confirmed, created, established and maintained for the payment and security thereof, all as hereinafter provided; and it is hereby ordered that the Senior Lien Obligations, and the interest thereon, shall constitute a lien on and pledge of the Pledged Revenues and be valid and binding without any physical delivery thereof or further act by the Issuer, and the lien created hereby on the Pledged Revenues for

the payment and security of the Senior Lien Obligations, including the establishment and maintenance of the special funds created, confirmed, established and maintained for the payment and security thereof, shall be superior to the lien on and pledge of the Pledged Revenues securing payment of any Subordinate Lien Obligations heretofore or hereafter issued by the Issuer. The Senior Lien Obligations, and any interest payable thereon, are and shall secured by and payable from a first lien on and pledge of the Pledged Revenues. The Senior Lien Obligations are not and will not be secured by or payable from a mortgage or deed of trust on any real, personal, or mixed properties constituting the System.

(c) Chapter 1208, Government Code, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the Issuer under this Section, and is therefore valid, effective, and perfected. Should Texas law be amended at any time while the Bonds are Outstanding and unpaid, the result of such amendment being that the pledge of the Pledged Revenues granted by the Issuer under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, in order to preserve to the Registered Owners of the Bonds a security interest in said pledge, the Issuer agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing of a security interest in said pledge to occur.

SECTION 7. SPECIAL FUNDS.

(a) There heretofore has been created and is hereby confirmed and ordered to be maintained on the books of the Issuer, a special fund entitled the "City of Denton Electric System Fund" (the "*Electric System Fund*").

(b) There heretofore has been created and is hereby confirmed and ordered to be maintained on the books of the Issuer, a special fund entitled the "City of Denton Wastewater System Fund" (the "*Wastewater System Fund*").

(c) There heretofore has been created and is hereby confirmed and ordered to be maintained on the books of the Issuer, a special fund entitled the "City of Denton Water System Fund" (the "*Water System Fund*").

(d) There heretofore has been created and is hereby confirmed and ordered to be maintained on the books of the Issuer so long as Senior Lien Obligations are Outstanding, a separate fund entitled "City of Denton Utility System Revenue Bonds Interest and Sinking Fund" (the "*Interest and Sinking Fund*").

(e) The Issuer may at any time combine any two or more of the Electric System Fund, Wastewater System Fund or Water System Fund into a single Fund. Any references in this Ordinance to any of the Funds so combined shall be deemed to refer to the newly combined Fund.

(f) Each such Fund shall be accounted for separate and apart from all other funds of the Issuer, and shall be maintained in a Depository of the Issuer.

SECTION 8. SYSTEM FUNDS. The Issuer hereby covenants, agrees and establishes that the Gross Revenues shall be deposited and credited to the System Funds immediately as collected and received except as otherwise provided in this Ordinance. All Operating Expenses are and shall be paid from such Gross Revenues as a first charge against same.

SECTION 9. FLOW OF FUNDS.

(a) All Gross Revenues deposited and credited to the System Funds shall be pledged and appropriated to the extent required for the following uses and in the order of priority shown:

First: to the payment of all necessary and reasonable Operating Expenses as defined herein, and the payment of such Operating Expenses shall be a first charge on and claim against the Gross Revenues.

Second: to the payment of the amounts required to be deposited and credited to the Interest and Sinking Fund, created and established for the payment of the Bonds and any other Senior Lien Obligations as the same become due and payable.

Third: pro rata to the payment of the amounts required to be deposited and credited to each debt service reserve fund (including any payments under any Reserve Credit Facility) as may be created and established to maintain a reserve with respect to the Additional Senior Lien Obligations, if any, and in accordance with the provisions of the ordinances relating to the issuance of any Additional Senior Lien Obligations hereafter issued by the Issuer.

Fourth: to make payment, including payment of amounts required for reserve fund requirements, of Subordinate Lien Obligations.

(b) Any Pledged Revenues remaining in the System Funds after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other Issuer purpose now or hereafter permitted by law.

SECTION 10. INTEREST AND SINKING FUND.

(a) For purposes of providing funds to pay the principal of, premium, if any, and interest on the Senior Lien Obligations as the same become due and payable, including any Amortization Installment payments, the Issuer agrees that it shall maintain the Interest and Sinking Fund. The Issuer covenants to deposit and credit to the Interest and Sinking Fund prior to each principal, interest payment or redemption date from the available Pledged Revenues an amount equal to one hundred percent (100%) of the amount required to fully pay the interest on and the principal of the Senior Lien Obligations then coming due and payable. The Issuer shall deposit to the Interest and Sinking Fund the amounts required to be deposited therein with respect to Senior Lien Obligations in accordance with the ordinance authorizing such Senior Lien Obligations. The Issuer shall cause to be deposited to the credit of the Interest and Sinking Fund accrued interest received from the sale of the Bonds, and on or before the last business day of each month, the Issuer shall cause to be deposited to the credit of the Interest and Sinking Fund, in approximately equal monthly payments, amounts sufficient, together with any other funds on hand therein, to pay all of the interest or principal and interest coming due, including Amortization Installments, on the Bonds on the next succeeding interest or principal payment date.

(b) The required deposits and credits to the Interest and Sinking Fund shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in and credited to the Interest and Sinking Fund and in any debt service reserve fund created pursuant to Section 11, taking into account any Reserve Credit Facility held in or for the benefit of any such debt service reserve fund, is equal to the amount required to fully pay and discharge all Outstanding Senior Lien Obligations (principal, premium, if any, and interest) or (ii) the Senior Lien Obligations are no longer Outstanding.

(c) Accrued interest, if any, received from the purchaser of any Senior Lien Obligation and capitalized interest shall be taken into consideration and reduce the amount of the deposits and credits hereinabove required into the Interest and Sinking Fund.

(d) In allocating moneys on deposit in the Interest and Sinking Fund to pay the principal of, premium, if any, and interest on the Senior Lien Obligations as the same become due and payable among

Senior Lien Obligations that are secured by a debt service reserve fund created pursuant to Section 11 and Senior Lien Obligations that are not secured by a debt service reserve fund, the Issuer shall not take amounts on deposit (including moneys or Reserve Credit Facilities) in the debt service reserve funds into account when making such allocations.

SECTION 11. DEBT SERVICE RESERVE FUNDS.

(a) The Issuer may create and establish a debt service reserve fund pursuant to the provisions of any ordinance or other instrument authorizing the issuance of Senior Lien Obligations for the purpose of securing that particular issue or series of Senior Lien Obligations or any specific group of issues or series of Senior Lien Obligations (including the combining of debt service reserve funds for Senior Lien Obligations so long as the requirements of each ordinance authorizing such Senior Lien Obligations are satisfied). A debt service reserve fund may be funded from Pledged Revenues, proceeds from the sale of Additional Senior Lien Obligations, Reserve Credit Facilities, or any other available source or combination of sources. The amounts once deposited or credited to said debt service reserve funds shall no longer constitute Pledged Revenues and shall be held solely for the benefit of the owners of the particular Senior Lien Obligations for which such debt service reserve fund was established. Each debt service reserve fund shall receive a pro rata amount of the Pledged Revenues after the requirements of the Interest and Sinking Fund, which secures all Senior Lien Obligations, have first been met. Each such debt service reserve fund shall be designated in such manner as is necessary to identify the Senior Lien Obligations it secures and to distinguish such debt service reserve fund from the debt service reserve funds created for the benefit of other Senior Lien Obligations. Each ordinance authorizing the issuance of Senior Lien Obligations that are to be secured by a debt service reserve fund shall specify the amount or a manner of calculating the amount to be held and maintained on deposit therein.

(b) The Issuer may issue Additional Senior Lien Obligations not secured by any debt service reserve fund.

SECTION 12. RATE STABILIZATION RESERVES. The Issuer may from time to time establish and maintain a Rate Stabilization Reserve in any one or more of the Electric System Fund, the Wastewater System Fund and the Water System Fund for so long as any Senior Lien Obligations remain outstanding and unpaid. The Issuer may at any time deposit to the credit of any Rate Stabilization Reserve any excess Net Revenues, after making required deposits hereinabove described to the Interest and Sinking Fund and any debt service reserve fund created in accordance with Section 11(a), and any other money received by the Issuer and available to be used therefor. Funds on deposit in a Rate Stabilization Reserve may be used, at the discretion of the Issuer, for capital additions and improvements to the System or any other lawful purpose, or to enable the Issuer to satisfy its covenant set forth in Section 16(m). All interest or other earnings derived from the investment of money in a Rate Stabilization Reserve shall be credited to that Rate Stabilization Reserve. Money on deposit to the credit of a Rate Stabilization Reserve shall not be included as a revenue for purposes of satisfying the covenant set forth in Section 16(m), unless the Issuer transfers money from the Rate Stabilization Reserve to the System Funds for the sole purpose of enabling the Issuer to be in compliance with its covenant set forth in Section 16(m).

SECTION 13. DEFICIENCIES; EXCESS PLEDGED REVENUES.

(a) Deficiencies. If on any occasion there shall not be sufficient Pledged Revenues (after making all payments pertaining to all Senior Lien Obligations) to make the required deposits and credits to the Interest and Sinking Fund and any debt service reserve fund for Senior Lien Obligations, then such deficiency shall be cured as soon as possible from the next available unallocated Pledged Revenues, and such deposits and credits shall be in addition to the amounts otherwise required to be deposited and credited to such funds.

(b) Excess Pledged Revenues. Subject to making the deposits and credits required by this Ordinance or any ordinances authorizing the issuance of Additional Senior Lien Obligations, or the payments and credits required by the provisions of the ordinances authorizing the issuance of Subordinate Lien Obligations heretofore or hereafter issued by the Issuer, the excess Pledged Revenues may be used for any lawful purpose.

SECTION 14. INVESTMENT OF FUNDS; VALUATION; FUNDS SECURED; TRANSFER OF INVESTMENT INCOME.

(a) Moneys in any fund established or maintained pursuant to this Ordinance may, at the option of the Issuer, be invested in Permitted Investments, provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times. Moneys in a debt service reserve fund for Senior Lien Obligations shall not be invested in securities maturing later than the final maturity of the Senior Lien Obligations secured by such debt service reserve fund. Such investments shall be valued in terms of current market value as of the last day of each Year, except that direct obligations of the United States (State and Local Government Series) in book-entry form shall be continuously valued at their par or face principal amount. Such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds or any Additional Senior Lien Obligations issued. To the extent not invested, moneys in any fund established pursuant to this Ordinance shall be secured in the manner prescribed by law for securing funds of the Issuer.

(b) All interest and income derived from such investments (other than interest and income derived from amounts credited to the Rate Stabilization Reserves or any debt service reserve fund created in accordance with Section 11, if the debt service reserve fund does not contain the Senior Lien Obligation Reserve Requirement) shall be credited to the System Funds semi-annually and shall constitute Gross Revenues.

SECTION 15. PAYMENT OF SENIOR LIEN OBLIGATIONS. While any of the Senior Lien Obligations are Outstanding, the Issuer shall transfer to the respective paying agent/registrar therefor, from funds on deposit in and credited to the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly the interest on and principal of the Senior Lien Obligations as shall become due on each interest or principal payment date, or date of redemption of the Senior Lien Obligations; such transfer of funds must be made in such manner as will cause immediately available funds to be deposited with each respective paying agent/registrar for the Senior Lien Obligations by not later than 11:00 a.m. Central Time on the applicable payment date for the Senior Lien Obligations. The paying agent/registrar shall destroy all paid Senior Lien Obligations and furnish the Issuer with an appropriate certificate of cancellation or destruction.

SECTION 16. ISSUER COVENANTS. The Issuer further covenants and agrees that in accordance with and to the extent required or permitted by law:

(a) Performance. It will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in any ordinance authorizing the issuance of Senior Lien Obligations, including this Ordinance, and in each and every Senior Lien Obligation; it will promptly pay or cause to be paid the principal of and interest on every Senior Lien Obligation on the dates and in the places and manner prescribed in such ordinances and obligations; and it will, at the times and in the manner prescribed, deposit and credit or cause to be deposited and credited the amounts required to be deposited and credited to the Interest and Sinking Fund.

(b) Issuer's Legal Authority. It is a duly created and existing home rule city of the State of Texas, and is duly authorized under the laws of the State of Texas to issue the Bonds; that all action on its part for the issuance of the Bonds has been duly and effectively taken, and that the Bonds in the hands of the Registered

Owners thereof are and will be valid and enforceable special obligations of the Issuer in accordance with their terms.

(c) Title. It has or will obtain lawful title to the lands, buildings, structures and facilities constituting the System, that it warrants that it will defend the title to all the aforesaid lands, buildings, structures and facilities, and every part thereof, for the benefit of the Registered Owners of the Senior Lien Obligations, against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Pledged Revenues to the payment of the Senior Lien Obligations in the manner prescribed herein, and has lawfully exercised such rights.

(d) Liens. It will from time to time and before the same become delinquent pay and discharge all taxes, assessments and governmental charges, if any, which shall be lawfully imposed upon it, or the System; it will pay all lawful claims for rents, royalties, labor, materials and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and it will not create or suffer to be created any mechanic's, laborer's, materialman's or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the Issuer.

(e) Operation of System; No Free Service. It will, while any Senior Lien Obligations are Outstanding, continuously and efficiently operate the System, and shall maintain the System in good condition, repair and working order, all at reasonable cost. No free service of the System shall be allowed, and should the Issuer or any of its agencies, instrumentalities, lessors, or concessionaires make use of the services and facilities of the System, payment monthly of the standard retail price of the services provided shall be made by the Issuer or any of its agencies, instrumentalities, lessors, or concessionaires out of funds from sources other than the revenues of the System, unless made from surplus Pledged Revenues as permitted by Section 13(b).

(f) Further Encumbrance. While any Senior Lien Obligations are Outstanding, it will not additionally encumber the Pledged Revenues in any manner, except as permitted in this Ordinance in connection with Additional Senior Lien Obligations, unless said encumbrance is made junior and subordinate in all respects to the liens, pledges, covenants and agreements of this Ordinance; but the right of the Issuer to issue or incur obligations, including Subordinate Lien Obligations, payable from a subordinate lien on the Pledged Revenues is specifically recognized and retained.

(g) Sale or Disposal of Property. While any Senior Lien Obligations are Outstanding, it will not sell, convey, mortgage, encumber, lease or in any manner transfer title to, or otherwise dispose of, the System, or any significant or substantial part thereof, except as follows:

(1) To the extent permitted by law, the Issuer may sell, exchange or otherwise dispose of at any time and from time to time any property or facilities constituting part of the System only if (i) it shall determine such property or facilities are not useful in the operation of the System, (ii) the proceeds of such sale are $500,000 or less, or it shall have received a certificate of a Designated Financial Officer stating in the opinion of the signer, that the fair market value of the property or facilities exchanged is $500,000 or less, or (iii) if such proceeds or fair market value exceeds $500,000 it shall have received a certificate of a Designated Financial Officer stating, in the opinion of the signer, that the sale or exchange of such property or facilities will not impair the ability of the Issuer to comply during the current or any future year with the provisions of clause (m) of this Section. The proceeds of any such sale or exchange not used to acquire other property necessary or

desirable for the safe or efficient operation of the System shall forthwith, at the option of the Issuer (i) be used to redeem or purchase Senior Lien Obligations, (ii) otherwise be used to provide for the payment of Senior Lien Obligations, or (iii) be used for any other lawful purpose; and

(2) To the extent permitted by law, the Issuer may lease or make contracts or grant licenses for the operation of or make arrangements for the use of or grant easements or other rights with respect to, any part of the System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation by the Issuer of the System and (ii) does not in any manner impair or adversely affect the rights or security of the owners of the Senior Lien Obligations under this Ordinance; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement or other right is in excess of $1,000,000, the Issuer shall have received a certificate of a Designated Financial Officer that the action of the Issuer with respect thereto does not result in a breach of the conditions under this clause (2). Any payments received by the Issuer under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the System or any part thereof shall constitute Gross Revenues.

(h) Insurance. (1) The Issuer shall insure such parts of the System as would usually be insured by corporations operating like properties, with responsible insurance companies, or through self-insurance with adequate stop-loss reinsurance, against loss to the extent insurance is usually carried by corporations operating like properties, including, to the extent reasonably obtainable, insurance against the perils of fire, extended coverage and flooding and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the Issuer's attorney gives a written opinion to the effect that the Issuer is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the Issuer shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the Registered Owners and their agents and representatives at all reasonable times. Upon the happening of any loss or damage covered by insurance from one or more of said causes, the Issuer shall make due proof of loss and shall do all things necessary or desirable to cause the insuring companies to make payment in full directly to the Issuer. The proceeds of insurance covering such property, together with any other funds necessary and available for such purpose, shall be used forthwith by the Issuer for repairing the property damaged or replacing the property destroyed; provided, however, that if said insurance proceeds and other funds are insufficient for such purpose, then said insurance proceeds pertaining to the System shall be deposited in a special and separate trust fund, at a Depository, to be designated the Insurance Account. The Insurance Account shall be held until such time as other funds become available which, together with the Insurance Account, will be sufficient to make the repairs or replacements originally required, whichever of said events occurs first; provided that the Issuer may, in its discretion, use funds in the Insurance Account for the redemption or purchase of Senior Lien Obligations.

(2) The foregoing provisions of clause (1) above notwithstanding, the Issuer shall have authority to enter into coinsurance or similar plans where risk of loss is shared in whole or in part by the Issuer.

(3) The annual audit hereinafter required may contain a section commenting on whether or not the Issuer has complied with the requirements of this Section with respect to the maintenance of insurance, and listing all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.

(i) Governmental Agencies. It will comply with all of the terms and conditions of any and all franchises, permits and authorizations applicable to or necessary with respect to the System, and which have been obtained from any governmental agency; and the Issuer has or will obtain and keep in full force and

effect all franchises, permits, authorization and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation and maintenance of the System.

(j) No Competition. That so far as it legally may, it will not grant any franchise or permit for the acquisition, construction or operation of any competing facilities which might be used as a substitute for the System's facilities and, to the extent that it legally may, the Issuer will prohibit any such competing facilities.

(k) Records. It will keep proper books of record and account in which full, true and correct entries will be made of all dealings, activities and transactions relating to the System, the Pledged Revenues, and the funds created pursuant to this Ordinance, and all books, documents and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of a Registered Owner of Senior Lien Obligations; provided, that all books, documents, and vouchers relating to the City's electric system shall be made available for inspection only to the extent required by law, including, without limitation, the provisions of Section 552.133 of the Texas Government Code.

(l) Audits. After the close of each Year while any Senior Lien Obligation is Outstanding, it will cause an audit to be made of the books and accounts relating to the Issuer, including the System and the Pledged Revenues by an Accountant. Such annual audit reports shall be open to the inspection of the Registered Owners of Senior Lien Obligations and their agents and representatives at all reasonable times.

(m) Rate Covenant. It will fix, establish, maintain and collect such rates, charges and fees for the use and availability of the System at all times as are necessary to produce Gross Revenues, together with any other Pledged Revenues, sufficient (1) to pay all current Operating Expenses, and (2) to produce Pledged Revenues for each Year at least equal to 1.00 times the Annual Debt Service Requirements of all then Outstanding Senior Lien Obligations for that Year, and (3) to produce amounts required to pay all other obligations of the System reasonably anticipated to be paid from Pledged Revenues during the current Year.

SECTION 17. ISSUANCE OF ADDITIONAL SENIOR LIEN OBLIGATIONS.

(a) The Issuer shall have the right and power at any time and from time to time and in one or more series or issues, to authorize, issue and deliver Additional Senior Lien Obligations for any purpose authorized by law, including for purposes of extending, improving or repairing the System and for the purpose of refunding of any Senior Lien Obligations, Subordinate Lien Obligations or other obligations of the Issuer incurred in connection with the ownership or operation of the System. Such Additional Senior Lien Obligations, if and when authorized, issued and delivered in accordance with this Ordinance and any ordinance hereafter adopted authorizing the issuance or incurrence of Additional Senior Lien Obligation, shall be secured by and made payable equally and ratably on a parity with all other Senior Lien Obligations at the time Outstanding and unpaid, from a first lien on and pledge of the Pledged Revenues herein granted.

(b) The Interest and Sinking Fund shall secure and be used to pay all Senior Lien Obligations. Each ordinance under which Additional Senior Lien Obligations are issued shall provide and require that, in addition to the amounts required by the provisions of this Ordinance and the provisions of any other ordinance or ordinances authorizing Additional Senior Lien Obligations to be deposited to the credit of the Interest and Sinking Fund, the Issuer shall deposit to the credit of the Interest and Sinking Fund at least such amounts as are required for the payment of all principal of and interest on said Additional Senior Lien Obligations then being issued, as the same come due.

(c) Additional Senior Lien Obligations shall be issued only in accordance with this Ordinance, but notwithstanding any provisions of this Ordinance to the contrary, no installment, series or issue of Additional Senior Lien Obligations shall be issued or delivered unless:

(1) A Designated Financial Officer shall have executed a certificate stating (A) that, to the best of such person's knowledge and belief, the Issuer is not then in default as to any covenant or requirement contained in any ordinance authorizing the issuance of Outstanding Senior Lien Obligations, and (B)(i) payments into all special funds or accounts created and established for the payment and security of all Outstanding Senior Lien Obligations have been made and that the amounts on deposit in such special funds or accounts are the amounts then required to be on deposit therein or (ii) the application of the proceeds of sale of such obligations then being issued will cure any such deficiency; and

(2) A Designated Financial Officer shall have executed a certificate stating that based on the books and records of the Issuer, during either the preceding Year, or any twelve (12) consecutive months out of the fifteen (15) months immediately preceding the month in which the then proposed Additional Senior Lien Obligations are to be issued, the Net Revenues are equal to the lesser of (A) at least 1.25 times the Average Annual Debt Service Requirements, or (B) at least 1.10 times the Maximum Annual Debt Service Requirements, of, in either case, the Senior Lien Obligations to be Outstanding after the issuance of the then proposed Additional Senior Lien Obligations.

(d) If the proceeds of the Additional Senior Lien Obligations are to be used to construct or acquire a Capital Addition, the certificate required by clause (c)(2) above shall not be required, and the following two certificates shall be required:

(1) A Designated Financial Officer shall have executed a certificate stating that based on the books and records of the Issuer, during either the preceding Year, or any twelve (12) consecutive months out of the fifteen (15) months immediately preceding the month in which the then proposed Additional Senior Lien Obligations are to be issued, the Net Revenues are equal to the lesser of (A) at least 1.25 times the Average Annual Debt Service Requirements, or (B) at least 1.10 times the Maximum Annual Debt Service Requirements, of, in either case, the Senior Lien Obligations to be Outstanding at the time of the issuance of the then proposed Additional Senior Lien Obligations (but excluding the Additional Senior Lien Obligations then being issued); and

(2) An Accountant or a Consulting Engineer shall have executed a certificate to the effect that the projected Net Revenues will be, in the person's or its opinion, for each of the five (5) Years subsequent to the date the Capital Addition becomes commercially operative (as estimated in the engineering report pertaining thereto) equal to the lesser of (A) at least 1.25 times the Average Annual Debt Service Requirements, or (B) at least 1.10 the Maximum Annual Debt Service Requirements, of, in either case, Senior Lien Obligations then Outstanding and all Additional Senior Lien Obligations then estimated to be issued, if any, for all improvements to the System and for all Capital Additions then in progress or then being initiated during the period from the date the first series of obligations for the Capital Addition is to be delivered through the fifth Year subsequent to the date the Capital Addition is estimated to become commercially operative.

(e) Payments to be made under a Credit Agreement may be treated as a payment in respect of a Senior Lien Obligation and secured by Pledged Revenues if the City Council makes a finding in the ordinance authorizing the execution and delivery of a Credit Agreement as a Senior Lien Obligation that, based upon the findings contained in a certificate executed and delivered by a Designated Financial Officer, the Issuer will have sufficient funds to meet the financial obligations of the System, including sufficient Pledged Revenues to satisfy the Annual Debt Service Requirements of the System and the financial obligations of the Issuer relating to the System after giving effect to the treatment of the Credit Agreement as a Senior Lien Obligation. The payment obligations incurred by the Issuer under a Credit Agreement shall not be treated as a Senior Lien Obligation unless the form of such Credit Agreement is approved by ordinance or resolution adopted by the City Council.

(f) In making a determination of Net Revenues for any of the purposes described in this Section, the Designated Financial Officer, Accountant or Consulting Engineer may take into consideration a change in the rates and charges for services and facilities afforded by the System that has been adopted by the Issuer or became effective at least sixty (60) days prior to the issuance date of the Additional Senior Lien Obligations and, for purposes of satisfying the Net Revenues tests described above, make a pro forma determination of the Net Revenues of the System for the period of time covered by said Designated Financial Officer's, Accountant's or Consulting Engineer's certification or opinion based on such change in rates and charges being in effect for the entire period covered by said Designated Financial Officer's, Accountant's or Consulting Engineer's certificate or opinion.

(g) Senior Lien Obligations may be refunded (pursuant to any law then available) upon such terms and conditions as the Issuer may deem to be in the best interest of the Issuer and its inhabitants, and if less than all such Outstanding Senior Lien Obligations are refunded, the proposed refunding bonds shall be considered as "Additional Senior Lien Obligations" under the provisions of this Section and the certificate required in clause (c)(2) shall give effect to the issuance of the proposed refunding bonds (and shall not give effect to the bonds being refunded following their cancellation or provision being made for their payment).

(h) All calculations of Average Annual Debt Service Requirements and Maximum Annual Debt Service Requirements made pursuant to this Section shall be made as of and from the date of the Additional Senior Lien Obligations then proposed to be issued.

SECTION 18. [RESERVED].

SECTION 19. NO ISSUANCE OF OBLIGATIONS SENIOR TO THE SENIOR LIEN OBLIGATIONS. The Issuer covenants and agrees that it will not issue any obligations payable from and secured, in whole or in part, by a lien on and pledge of the Pledged Revenues, senior in rank and dignity to the lien on and pledge of such Pledged Revenues securing the payment of the Senior Lien Obligations, it being the intent of the Issuer that upon the issuance of the Bonds, the Issuer will finance improvements and extensions of the System and refinance revenue obligations issued for the purpose of improving and extending the System with Senior Lien Obligations, Subordinate Lien Obligations or other obligations not issued on a parity with Senior Lien Obligations.

SECTION 20. ISSUANCE OF SUBORDINATE OBLIGATIONS. The Issuer hereby reserves the right to issue, at any time, obligations including, but not limited to, Subordinate Lien Obligations, payable from and equally and ratably secured, in whole or in part, by a lien on and pledge of the Pledged Revenues, subordinate and inferior in rank and dignity to the lien on and pledge of such Pledged Revenues securing the payment of the Senior Lien Obligations, as may be authorized by the laws of the State of Texas.

SECTION 21. ISSUANCE OF SPECIAL PROJECT BONDS. Nothing in this Ordinance shall be construed to deny the Issuer the right and it shall retain, and hereby reserves unto itself, the right to issue Special Project Bonds secured by liens on and pledges of revenues and proceeds derived from Special Projects.

SECTION 22. DEFEASANCE OF BONDS.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "*Defeased Bond*") within the meaning of this Ordinance, except to the extent provided in subsection (c) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by

irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "*Future Escrow Agreement*") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the funds created and the revenues herein pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Any moneys so deposited with the escrow agent under a Future Escrow Agreement may at the written direction of the Issuer be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Defeased Bonds and interest thereon, with respect to which such money has been so deposited, shall be turned over to the Issuer, or deposited as directed in writing by the Issuer. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Bonds may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Bonds, with respect to which such money has been so deposited, shall be remitted to the Issuer or deposited as directed in writing by the Issuer.

(c) Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the Issuer shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) In the event that the Issuer elects to defease less than all of the principal amount of Bonds of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Bonds by such random method as it deems fair and appropriate.

SECTION 23. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.

(a) Replacement Bonds. In the event any Outstanding Bond is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed, executed and delivered, a new Bond of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen or destroyed Bonds shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Bond, the registered owner applying for a replacement Bond shall furnish to the Issuer and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft

or destruction of a Bond, the registered owner shall furnish to the Issuer and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred that is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the Issuer may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the registered owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen or destroyed shall constitute a contractual obligation of the Issuer whether or not the lost, stolen or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Section 1206.022, Texas Government Code, this Section 23 shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the Issuer or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 4(a) for Bonds issued in conversion and exchange for other Bonds.

SECTION 24. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS.

(a) The Mayor of the Issuer and each Designated Financial Officer are hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Bond. The approving legal opinion of the Issuer's Bond Counsel and the assigned CUSIP numbers may, at the option of the Issuer, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

(b) The obligation of the initial purchaser to accept delivery of the Bonds is subject to the initial purchaser being furnished with the final, approving opinion of McCall, Parkhurst & Horton L.L.P., bond counsel to the Issuer, which opinion shall be dated as of and delivered on the date of initial delivery of the Bonds to the initial purchaser.

SECTION 25. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.

(a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Tax-Exempt Bonds as obligations described in section 103 of

the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Tax-Exempt Bonds (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed or refinanced therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Tax-Exempt Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Tax-Exempt Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" that is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount that is greater than the lesser of $5,000,000, or 5 percent of the proceeds of the Tax-Exempt Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action that would otherwise result in the Tax-Exempt Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Tax-Exempt Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Tax-Exempt Bonds, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Tax-Exempt Bonds, other than investment property acquired with:

(A) proceeds of the Tax-Exempt Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the rules and regulations of the United States Department of the Treasury ("*Treasury Regulations*"), and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Tax-Exempt Bonds;

(7) to otherwise restrict the use of the proceeds of the Tax-Exempt Bonds or amounts treated as proceeds of the Tax-Exempt Bonds, as may be necessary, so that the Tax-Exempt Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Tax-Exempt Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Tax-Exempt Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (a)(9), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such Rebate Fund shall not be subject to the claim of any other person, including without limitation the Bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Use of Proceeds. For purposes of the foregoing covenants (a)(1) and (a)(2), the Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Tax-Exempt Bonds. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the United States Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Tax-Exempt Bonds, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Tax-Exempt Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Tax-Exempt Bonds, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Tax-Exempt Bonds under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor or Pricing Officer to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, that may be permitted by the Code as are consistent with the purpose for the issuance of the Tax-Exempt Bonds.

(d) Disposition of Project. The Issuer covenants that the property constituting the projects refinanced with the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless the Issuer obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Tax-Exempt Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains a legal opinion that such failure to comply will not adversely affect the excludability for federal income tax proposes from gross income of the interest.

SECTION 26. COVENANTS REGARDING TAXABLE BONDS.

(a) To the extent required by the Code, and the rules and regulations of the United States Department of the Treasury, it shall be the duty of the Paying Agent/Registrar to report to the owners of the Taxable Bonds and the Internal Revenue Service (i) the amount of "reportable payments," if any, subject to back up withholding during each year and the amount of tax withheld, if any, with respect to the payments on the Taxable Bonds and (ii) the amount of interest or amount treated as interest, such as original issue discount, on

the Taxable Bonds required to be included in the gross income of the owners thereof for federal income tax purposes.

(b) It is the intention of the Issuer that the Taxable Bonds not be obligations described in section 103 of the Code interest on which is excludable from the gross income of the holders and in that regard the Issuer agrees not to file a form 8038 G, or any comparable information return relating to tax-exempt obligations, with the Internal Revenue Service.

SECTION 27. SALE OF BONDS; OFFICIAL STATEMENT; BOND INSURANCE; FURTHER PROCEDURES.

(a) Sale of Bonds. Each Series of Bonds shall be sold and delivered subject to the provisions of Section 2 and Section 3 through a negotiated sale, competitive sale or private placement and pursuant to the terms and provisions of a purchase contract or a notice of sale and official bid form (in each case, a "*Purchase Agreement*"), the terms and provisions of which are to be determined by the Pricing Officer in accordance with Section 3, and in which the purchaser or purchasers of the Bonds (the "*Purchaser*") shall be designated. The Pricing Officer is hereby authorized to execute and deliver one or more Purchase Agreements for and on behalf of the Issuer. The Bonds shall initially be registered in the name of the Purchaser or its designee.

(b) Official Statement. The Pricing Officer is hereby authorized, in the name and on behalf of the Issuer, to approve, distribute, and deliver one or more preliminary official statements or other preliminary offering document relating to the Bonds and any addenda, supplement or amendment thereto, and approves the distribution of such preliminary official statement or other preliminary offering document in the offering of the Bonds by the Purchaser in final form, with such changes therein or additions thereto as the Pricing Officer may deem advisable. The Pricing Officer is hereby authorized, in the name and on behalf of the Issuer, to approve, distribute, and deliver one or more final official statement or other a final offering document relating to the Bonds to be used by the Purchaser in the marketing of the Bonds.

(c) Bond Insurance. The Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company so designated in the Pricing Certificate (the "*Insurer*") a municipal bond insurance policy (the "*Insurance Policy*") in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the Issuer to obtain a municipal bond insurance policy, for so long as the Insurance Policy is in effect, the requirements of the Insurer relating to the issuance of the Insurance Policy as set forth in the Pricing Certificate are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. The Pricing Officer shall have the authority to execute any documents to effect the issuance of the Insurance Policy by the Insurer, including commitment agreements, membership agreements in mutual insurance companies and other similar agreements.

(d) Further Procedures. The Mayor and Mayor Pro Tem, the City Manager, Pricing Officer and City Secretary and all other officers, employees and agents of the Issuer, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer a Paying Agent/Registrar Agreement with the Paying Agent/Registrar and all other instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Pricing Certificate, the Bonds, the sale of the Bonds, any Purchase Agreement and any official statement or other offering document. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 28. DEFAULT AND REMEDIES.

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the Issuer, the failure to perform which materially, adversely affects the rights of the registered owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the Issuer.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Issuer for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then Outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or council members of the Issuer.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the Issuer, shall be charged personally by the registered owners with any liability, or be held personally liable to the registered owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

SECTION 29. COMPLIANCE WITH RULE 15c2-12.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"*Financial Obligation*" means a (i) debt obligation, (ii) derivative instrument entered into in connection with or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a "financial obligation" shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission.

(b) Annual Reports.

(i) The Issuer shall provide annually to the MSRB, in the electronic format prescribed by the MSRB, financial information and operating data (the "*Annual Operating Report*") with respect to the Issuer of the general type included in the final official statement or other offering document authorized by this Ordinance, being the information described in the Pricing Certificate. The Issuer will additionally provide financial statements of the Issuer (the "*Financial Statements*"), that will be (i) prepared in accordance with the accounting principles described in the Pricing Certificate or such other accounting principles as the Issuer may be required to employ from time to time pursuant to State law or regulation and shall be in substantially the form included in the final official statement or other offering document and (ii) audited, if the Issuer commissions an audit of such Financial Statements and the audit is completed within the period during which they must be provided. The Issuer will update and provide the Annual Operating Report within six months after the end of each Year and the Financial Statements within 12 months of the end of each Year, in each case beginning with the Year ending in and after 2020. The Issuer may provide the Financial Statements earlier, including at the time it provides its Annual Operating Report, but if the audit of such Financial Statements is not complete within 12 months after any such Year end, then the Issuer shall file unaudited Financial Statements within such 12-month period and audited Financial Statements for the applicable Year, when and if the audit report on such Financial Statements becomes available.

(ii) If the Issuer changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Issuer otherwise would be required to provide financial information and operating data pursuant to this Section. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document that is available to the public on the MSRB's internet website or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Event Notices.

(i) The Issuer shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event) of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

1. Non-payment related defaults;

2. Modifications to rights of Registered Owners;

3. Bond calls;

4. Release, substitution, or sale of property securing repayment of the Bonds;

5. The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;

6. Appointment of a successor or additional trustee or the change of name of a trustee; and

7. Incurrence of a Financial Obligation of the Issuer or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer, any of which affect security holders.

(ii) The Issuer shall notify the MSRB in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event) of any of the following events with respect to the Bonds, without regard to whether such event is considered material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies;

2. Unscheduled draws on debt service reserves reflecting financial difficulties;

3. Unscheduled draws on credit enhancements reflecting financial difficulties;

4. Substitution of credit or liquidity providers, or their failure to perform;

5. Adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Bonds, or other material events affecting the tax-exempt status of the Bonds;

6. Tender offers;

7. Defeasances;

8. Rating changes;

9. Bankruptcy, insolvency, receivership or similar event of an obligated person; and

10. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

(iii) The Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such subsection.

(d) Limitations, Disclaimers, and Amendments.

(i) The Issuer shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Issuer remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Issuer in any event will give notice of any deposit made in accordance with this Ordinance or applicable law that causes Bonds no longer to be Outstanding.

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Issuer undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Issuer's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Issuer does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE ISSUER BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(iv) No default by the Issuer in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance. Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Issuer under federal and state securities laws.

(v) Should the Rule be amended to obligate the Issuer to make filings with or provide notices to entities other than the MSRB, the Issuer hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended. The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Issuer so amends the provisions of this

Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

(e) Amendment of the Rule. The provisions of this Section shall be revised by the Pricing Officer to reflect the requirements of the Rule if the Rule is amended after the adoption of this Ordinance but prior to the delivery of the Bonds so as to permit an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule. The provisions of this Section may also be revised by the Pricing Officer prior to the delivery of the Bonds if the Pricing Officer determines such revisions are necessary or desirable. Any such revisions shall be set forth in the Pricing Certificate and are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary.

SECTION 30. METHOD OF AMENDMENT.

(a) The Registered Owners of Senior Lien Obligations of a majority of the aggregate principal amount of then Outstanding Senior Lien Obligations thereby affected (for purposes of this sentence only, 100% of the aggregate principal amount of Senior Lien Obligations which are insured by a bond insurance provider at the time that the Issuer seeks approval of an amendment shall be deemed to be owned by such bond insurance provider) shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the Issuer; provided, however, that without the consent of the Registered Owners of all of the Senior Lien Obligations at the time Outstanding thereby affected, nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Senior Lien Obligations so as to:

(1) Make any change in the maturity of any of the Outstanding Senior Lien Obligations;

(2) Reduce the rate of interest borne by any of the Outstanding Senior Lien Obligations;

(3) Reduce the amount of the principal payable on the Outstanding Senior Lien Obligations;

(4) Modify the terms of payment of principal of or interest on the Outstanding Senior Lien Obligations or impose any conditions with respect to such payment;

(5) Affect the rights of the Registered Owners of less than all of the Senior Lien Obligations then Outstanding;

(6) Change the minimum percentage of the principal amount of Senior Lien Obligations necessary for consent to such amendment; or

(7) Amend this subsection (a) of this Section.

(b) If at any time the Issuer shall desire to amend the Ordinance under this Section, the Issuer shall cause notice of the proposed amendment to be published in a financial newspaper or journal published in the City of New York, New York, once during each calendar week for at least two (2) successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all Registered Owners of Senior Lien Obligations. Such publication is not required, however, if notice in writing is given to each Registered Owner of Senior Lien Obligations.

(c) Whenever at any time the Issuer shall receive an instrument or instruments executed by the Registered Owners of at least a majority in the aggregate principal amount of all Senior Lien Obligations then Outstanding thereby affected, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the Paying Agent/Registrar, the City Council may pass the amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the Issuer and all the Registered Owners of then Outstanding Senior Lien Obligations and all future Senior Lien Obligations shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the Registered Owner of a Senior Lien Obligation pursuant to the provisions of this Section shall be irrevocable for a period of twelve (12) months from the date of the first publication of the notice or other service of written notice provided for in this Section, and shall be conclusive and binding upon all future Registered Owners of the same Senior Lien Obligation during such period. Such consent may be revoked at any time after twelve (12) months from the date of the first publication of such notice or other service of written notice by the Registered Owner who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar and the Issuer, but such revocation shall not be effective if the Registered Owners of a majority in aggregate principal amount of the then Outstanding Senior Lien Obligations as in this Section defined have, prior to the attempted revocation, consented to and approve the amendment.

(f) The fact of the owning of Senior Lien Obligations issued in registered form without coupons and the amounts and numbers of such Senior Lien Obligations and the date of their holding same shall be proved by the Registration Books of the Paying Agent/Registrar. The Issuer may conclusively assume that such ownership continues until such ownership is changed on the Registration Books. For purposes of this Section, the notional amount attributable to a Credit Agreement that is treated as a Senior Lien Obligation shall be deemed to be the principal amount of such Senior Lien Obligation.

(g) The foregoing provisions of this Section notwithstanding, the Issuer by action of the City Council may amend this Ordinance without the consent or approval of any Registered Owners of Senior Lien Obligations for any one or more of the following purposes:

(1) To add to the covenants and agreements of the Issuer in this Ordinance contained, other covenants and agreements thereafter to be observed, grant additional rights or remedies to Registered Owners or to surrender, restrict or limit any right or power herein reserved to or conferred upon the Issuer;

(2) To make such provisions for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in this Ordinance, or in regard to clarifying matters or questions arising under this Ordinance, including, without limitation, those matters described in Section 29(d)(v), or those matters necessary to obtain a rating on the Bonds or to obtain the approving opinion of the Attorney General of Texas as required by law, as are necessary or desirable and not contrary to or inconsistent with this Ordinance and which shall not adversely affect the interests of the Registered Owners of the Senior Lien Obligations;

(3) To make such changes, modifications and amendments as may be necessary or desirable, which shall not adversely affect the interests of the Registered Owners of Outstanding Senior Lien Obligations, in order to obtain or maintain a Credit Agreement or a Credit Facility;

(4) To modify any of the provisions of this Ordinance in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Senior Lien Obligations Outstanding at the date of the adoption of such modification shall cease to be Outstanding, and (ii) such modification shall be specifically referred to in the text of all Senior Lien Obligations issued after the date of the adoption of such modification.

SECTION 31. APPROVAL OF ESCROW AGREEMENT AND TRANSFER OF FUNDS. In furtherance of authority granted by Section 1207.007(b), Texas Government Code, the Mayor or a Pricing Officer are further authorized to enter into and execute on behalf of the Issuer with the escrow agent named therein, an escrow agreement, deposit agreement or other similar agreement, in the form and substance as shall be approved by the Pricing Officer, which agreement will provide for the payment in full of the Refunded Notes. In addition, the Mayor, Pricing Officer or other officer of the Issuer is authorized to purchase such securities, to execute such subscriptions for the purchase of the Escrowed Securities, (as defined in the agreement), if any, and to authorize such contributions to the escrow fund as provided in the agreement.

SECTION 32. REDEMPTION OF REFUNDED NOTES.

(a) The Refunded Notes shall be paid upon the earlier of their stated maturity dates or the earliest redemption dates for which notice of redemption can be given pursuant to the ECP Ordinance, in each case at a price of par plus accrued interest to the date of payment. As soon as practicable after sale of a Series of Bonds, appropriate notices of redemption shall be delivered to the paying agent/registrar for the Refunded Notes to notify, in accordance with the requirements of the ECP Ordinance, the owners of the Refunded Notes of the call for redemption thereof.

(b) In addition, the paying agent/registrar for the Refunded Notes is hereby directed to provide the appropriate notices of redemption and defeasance as specified by the ECP Ordinance and is hereby directed to make appropriate arrangements so that the Refunded Notes may be redeemed on their respective redemption dates. The Refunded Notes shall be presented for redemption at the paying agent/registrar therefore, and shall not bear interest after the date fixed for redemption.

(c) Concurrently with the delivery of a Series of Bonds, the Issuer shall cause to be deposited an amount from the proceeds from the sale of the Bonds, together with, to the extent necessary, available funds of the Issuer, with the paying agent/registrar for the Refunded Notes or placed in escrow with the escrow agent, pursuant to an escrow agreement approved in Section 31 of this Ordinance, sufficient to provide for the payment at maturity or the refunding and redemption, on the date or dates fixed for redemption, of all of the Refunded Notes, in accordance with Subchapter C of Chapter 1207.

SECTION 33. SEVERABILITY. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any persons or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this Ordinance, despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 34. NO PERSONAL LIABILITY. No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Ordinance, against any official or employee of the Issuer or any person executing any Bond.

SECTION 35. RULES OF CONSTRUCTION. That for all purposes of this Ordinance, unless the context requires otherwise, all references to designated Sections and other subdivisions are to the Sections and other subdivisions of this Ordinance. The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision.

Except where the context otherwise requires, terms defined in this Ordinance to impart the singular number shall be considered to include the plural number and vice versa. References to any named person means that party and its successors and assigns. References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the Issuer and any future amendments thereto or successor provisions thereof. Any reference to the payment of principal in this Ordinance shall be deemed to include the payment of Amortization Installments (if any). Any reference to "FORM OF BOND" shall refer to the form of the Bonds set forth in Section 5, as modified in a Pricing Certificate. The calculation of Average Annual Debt Service Requirements as may be required by this Ordinance shall be made at the beginning of each Year and shall be the sum of the Annual Debt Service Requirements due for the current and each subsequent Year in which the Senior Lien Obligations are outstanding divided by the number of such Years, or partial Years, if applicable. The words "owner" and "holder" and "bondholder", as used in this Ordinance, shall mean the registered or beneficial owner of a Bond.

SECTION 36. OPEN MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

SECTION 37. IMMEDIATE EFFECTIVE DATE. This Ordinance shall take effect and be in force immediately upon and after its adoption by the City Council in accordance with the provisions of Section 1201.028, Texas Government Code, and it is accordingly so resolved.

The motion to approve this Ordinance was made by _____ and seconded by _____.

This Ordinance was passed and approved by the following vote [__ – __]:

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

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PASSED, APPROVED AND EFFECTIVE this December 2, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

_____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

Susan Keller Digitally signed by Susan Keller
Date: 2025.11.06 10:49:28 -06'00'

_____

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Biggs & Mathews Environmental, Inc., for Cell 6 Construction Quality Assurance Services for the Solid Waste and Recycling Department as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 8525-011 – Professional Services Agreement for assurance services awarded to Biggs & Mathews Environmental, Inc., in the not-to-exceed amount of $245,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

Biggs & Mathews Environmental has submitted a proposal to provide professional services related to the construction inspection and materials testing during the construction of landfill Cell 6, as listed below.

1. Project Management
2. Field Testing and Observation
3. Laboratory Testing

A landfill must have an approved Soils and Liner Quality Control Plan (SLQCP) prepared under the direction of a registered professional engineer. The department has a professional service agreement with Parkhill to provide cell design and construction management services. The Biggs & Mathews Environmental service agreement includes quality control testing and performance data collections during cell construction, which is reported to the Texas Commission of Environmental Quality (TCEQ) in the Soil and Liner Evaluation Report (SLER) and the Flexible Membrane Liner Evaluation Report (FMLER). The SLQCP includes the constructed liner details, and the soil and liner quality control testing procedures and data, including the sampling frequency.

Biggs & Mathews Environmental will provide on-site observation, soil testing, geomembrane, and geocomposite testing during all liner construction, required by the TCEQ to meet the SLQCP. The professional services to be provided, the associated costs of the construction inspection, and the specific testing required are detailed in the proposal received from Biggs & Mathews Environmental.

Biggs & Mathews Environmental will work closely with Parkhill during the construction process to ensure all construction and testing requirements are performed in accordance with the regulatory requirements of the State of Texas and that all reporting is timely and accurate.

City staff recommend the Denton firm of Biggs & Mathews Environmental to provide the professional services as described in their proposal dated September 3, 2025. They offered similar services in 2021 during the construction of Cell 4 B, C, and D. They possess the professional testing expertise needed and can provide the Solid Waste Department with professional services to meet regulatory requirements.

Request for Qualifications for state certified engineers for professional engineering services for the Solid Waste and Recycling Department was solicited using the City's formal solicitation process. City Council approved a pre-qualified list of professional service firms on August 20, 2024 (Ordinance 24-1562).

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 20, 2024, City Council approved RFQ 8525 for state certified engineers for professional engineering services for the Solid Waste and Recycling Department (Ordinance 24-1562).

RECOMMENDATION

Award a contract with Biggs & Mathews Environmental, Inc., for Cell 6 Construction Quality Assurance Services for the Solid Waste and Recycling Department, in the not-to-exceed amount of $245,000.

PRINCIPAL PLACE OF BUSINESS

Biggs & Mathews Environmental, Inc.
Mansfield, TX

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval, with a completion date within 270 days.

FISCAL INFORMATION

These services will be funded from Cell 5 & 6 Construction account 660270585.1360.47710. Requisition #172113 has been entered into the Purchasing software system in the amount of $245,000. The budgeted amount of this item is $245,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: Randall Morris, 940-349-8049.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BIGGS & MATHEWS ENVIRONMENTAL, INC., FOR CELL 6 CONSTRUCTION QUALITY ASSURANCE SERVICES FOR THE SOLID WASTE AND RECYCLING DEPARTMENTS AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 8525-011 – PROFESSIONAL SERVICES AGREEMENT FOR ASSURANCE SERVICES AWARDED TO BIGGS & MATHEWS ENVIRONMENTAL, INC., IN THE NOT-TO-EXCEED AMOUNT OF $245,000.00).

WHEREAS, on August 20, 2024, the City Council approved a pre-qualified professional services list of state certified engineers for professional engineering services for the Solid Waste and Recycling Departments (Ordinance 24-1562), and the professional services provider (the "Provider") mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is hereby authorized to enter into an agreement with Biggs & Mathews Environmental, Inc., to provide professional engineering services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

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

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

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

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

The motion to approve this ordinance was made by _____ and

seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush _____
Marcella Lunn

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Docusign City Council Transmittal Coversheet

PSA	8525-011
File Name	CELL 6 CONSTRUCTION QUALITY ASSURANCE SERVICE
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

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CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and Biggs & Mathews Environmental, Inc., with its corporate office at 1700 Robert Rd, STE 100, Mansfield, TX 76063 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Cell 6 Construction Quality Assurance Service (the "PROJECT").

SECTION 1
Scope of Services

A. The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment A. These services shall be performed in connection with the PROJECT.

B. Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

SECTION 2
Compensation and Term of Agreement

A. The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed $245,000 in the manner and in accordance with the fee schedule as set forth in Attachment A. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.

B. Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

SECTION 3
Terms of Payment

Payments to the ENGINEER will be made as follows:

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A. Invoice and Payment

(1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.

(2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.

(3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.

(4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.

(5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

SECTION 4
Obligations of the Engineer

A. General

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

B. Standard of Care

The ENGINEER shall perform its services:

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

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

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C. Subsurface Investigations

(1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.

(2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

D. Preparation of Engineering Drawings

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

E. Engineer's Personnel at Construction Site

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

(2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the

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PROJECT, when completed, will be in accordance with the AGREEMENT Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.

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

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

(1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.

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

G. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

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H. Record Drawings

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

I. Right to Audit

(1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.

(2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.

(3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

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J. INSURANCE

(1) ENGINEER'S INSURANCE

a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than $1,000,000.00 per each occurrence with a $2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.

   i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.

   ii. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.

b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of "any auto", including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.

   i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.

c. Workers' Compensation – ENGINEER shall maintain workers compensation and employers liability insurance and, if necessary,

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

i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.

d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of $1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

(2) GENERAL INSURANCE REQUIREMENTS

a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.

b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.

c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.

d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.

e. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.

f. Insurers for all policies must be authorized to do business in the State of

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

g. Any deductible or self insured retention in excess of $25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at it sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.

h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.

i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.

j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.

k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.

l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.

m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

K. Independent Consultant

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

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L. Disclosure

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

M. Asbestos or Hazardous Substances

(1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.

(2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

N. Permitting Authorities - Design Changes

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

O. Schedule

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

P. Equal Opportunity

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

(2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and

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

SECTION 5
Obligations of the City

A. City-Furnished Data

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

B. Access to Facilities and Property

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

C. Advertisements, Permits, and Access

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

D. Timely Review

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

E. Prompt Notice

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

F. Asbestos or Hazardous Substances Release.

(1) CITY acknowledges ENGINEER will perform part of the work at CITY's facilities that may contain hazardous materials, including asbestos containing

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

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

G. Contractor Indemnification and Claims

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

H. Contractor Claims and Third-Party Beneficiaries

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

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

(2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.

(3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.

(4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

I. CITY's Insurance

(1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.

(2) The CITY may secure Builders Risk/Installation insurance at the replacement cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

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J. Litigation Assistance

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

K. Changes

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

SECTION 6
General Legal Provisions

A. Authorization to Proceed

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

B. Reuse of Project Documents

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

C. Force Majeure

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

D. Termination

(1) This AGREEMENT may be terminated:

a. by the City for its convenience upon 30 days' written notice to ENGINEER.

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

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

a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;

b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;

c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

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

E. Suspension, Delay, or Interruption to Work

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

F. Indemnification

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

G. Assignment

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

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

H. Jurisdiction

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

I. Severability and Survival

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

J. Observe and Comply

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

K. Immigration Nationality Act

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

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L. Prohibition on Contracts with Companies Boycotting Israel

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

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

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

N. Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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

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

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company

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that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms "discriminate against a firearm entity or firearm trade association," "firearm entity" and "firearm trade association" shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

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

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

Q. Prohibition Against Personal Interest in Contracts

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

R. Certificate of Interested Parties Electronic Filing

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

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

The contractor shall:

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

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

S. Agreement Documents

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

Attachment A - Scope of Services, Compensation, and Project Schedule

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

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

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

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

BY:
CITY OF DENTON, TEXAS

Sara Hensley, City Manager

BY:
ENGINEER
BIGGS & MATHEWS ENVIRONMENTAL, INC.

Signed by:
Gregory Adams
193AE82FE1304F9...

Principal
Authorized Agent, Title

Full Name: Gregory Adams

2025- 1376818
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

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

Signed by:
C3C63BE563154A1...
Signature

Director
Title

Solid Waste and Recycling
Department

Date Signed: 10/14/2025

ATTEST:
_____ CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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ATTACHMENT A

SCOPE OF SERVICES

City of Denton Landfill
Cell 6 Construction
Construction Quality Assurance Services

City of Denton

September 3, 2025

Prepared by

BIGGS & MATHEWS ENVIRONMENTAL
1700 Robert Road, Suite 100 ◆ Mansfield, Texas 76063 ◆ 817-563-1144

TEXAS BOARD OF PROFESSIONAL ENGINEERS
FIRM REGISTRATION NO. F-256

TEXAS BOARD OF PROFESSIONAL GEOSCIENTISTS
FIRM REGISTRATION NO. 50222

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

Introduction

Biggs and Mathews Environmental (BME) is pleased to submit this scope of services to provide construction quality assurance (CQA) services for construction of the Cell 6 composite liner and leachate collection system.

The following items summarize our understanding of the project:

- Cell 6 covers approximately 16.7 acres
- Cell 1590 covers approximately 13.8 acres
- Construction will begin during the fourth quarter of 2025
- A general contractor will excavate to design subgrade and construct the soil liner, a geosynthetics contractor will install composite liner and leachate collection system, and the general contractor will install the protective cover over the liner and will construct the leachate collection system trench and sump
- The composite liner and leachate collection system will consist of 2 feet of soil liner overlain by 60-mil HDPE geomembrane, drainage geocomposite and 2 feet of protective cover soil

The following table summarizes the estimated construction quantities and construction schedule for the Cell 6 portion of the project.

Description	Estimated Volume or Area	Estimated Production Rate	Approximate Number of Working Days	Number of CQA Monitors On Site
Compacted Soil Liner	54,000 cy	3,500 cy/day	16	1
Geomembrane	728,850 sf	50,000 sf/day	15	2
Geocomposite	728,850 sf	80,000 sf/day	10	1
Leachate Collection Trench and Sump	1,100 lf	600 lf/day	2	1
Protective Cover	54,000 cy	4,000 cy/day	14	1
Total Estimated Construction Days			57	

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The following table summarizes the estimated construction quantities and construction schedule for the Cell 1590 portion of the project.

Description	Estimated Volume or Area	Estimated Production Rate	Approximate Number of Working Days	Number of CQA Monitors On Site
Subgrade	10,555 cy	3,500 cy/day	3	1
Geomembrane	600,200 sf	50,000 sf/day	12	2
Geocomposite	1,140,000 sf	80,000 sf/day	14	1
Protective Cover	42,300 cy	4,000 cy/day	11	1
Total Estimated Construction Days			40	

Scope of Services

BME will provide full-time on-site CQA monitors during the construction of the liner and leachate collection systems as required by the Soil and Liner Quality Control Plan. The CQA monitors will:

- Observe earthwork and perform field density tests on compacted earthfill
- Observe soil liner construction and perform field density tests and collect samples for determining classification properties and permeability
- Observe geomembrane deployment, welding, testing and repairs and collect samples for laboratory testing
- Observe geocomposite deployment, seaming and repairs
- Observe leachate collection trench installation
- Observe protective cover placement

BME will also provide all laboratory testing services for the project. The laboratory testing will include:

- Conformance testing of the geomembrane material
- Preconstruction testing of the soil liner material
- Preconstruction testing of the leachate aggregate
- Construction testing of the soil liner material
- Construction testing of the geomembrane seams

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Project Budget

The proposed budget for the scope of services described is summarized below.

Task	Budget
1. Project Management	$ 29,000.00
2. Field Testing and Observation	$ 180,000.00
3. Laboratory Testing	$ 36,000.00
Total	**$ 245,000.00**

Services that are beyond those described in this proposal and are authorized by the City will be billed at the rates provided Attachment 1.

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ATTACHMENT 1

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

BIGGS & MATHEWS ENVIRONMENTAL, INC
TBPELS No. F-256 AND No. 10194895 TBPG No. 50222

SCHEDULE OF CHARGES

2025

PERSONNEL CHARGES

Category	Billing Rate Range $ Per Hour
Administrative/Project Assistant	60 – 80
Sr. Administrative/Project Assistant	80 – 100
Designer/Technician/Field Services	65 – 85
Sr. Designer/Sr. Technician/Sr. Field Services Technician	80 – 110
Engineer/Scientist	80 – 125
Project Engineer/Scientist	95 – 150
Senior Project Engineer/Scientist	125 – 175
Principal Engineer/Scientist	175 – 250
Survey – One (1) Person Field Crew	115 – 140
Survey – Two (2) Person Field Crew	155 – 180

Depositions and expert witness testimony, including preparation time, will be billed at 1.5 times the above hourly rates.

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OUTSIDE SERVICES

Charges for special outside services, equipment, and facilities not furnished by Biggs and Mathews will be billed at cost plus 15%. Such charges may include the following services:

Printing and photographic reproduction	Tolls
Rented vehicles	Rented equipment
Transportation on public carriers	Shipping charges
Subconsultants	Meals and lodging
Special fees, permits, insurance, etc.	Consumable materials

COMMUNICATIONS

The cost of communications including express mail, postage and routine copying costs will be charged at a flat rate of 3% of total gross labor charges.

DIRECT CHARGES

Auto/Truck per mile	$ 1.00
Auto/Truck per day	$100.00
Storage of samples per month per container*	$ 5.00
Disposal per container*	$ 50.00
Survey Equipment per day	$ 250.00

*A container is defined as a standard core box, a capped Shelby tube, or a sealed five-gallon bucket.

SUPPLEMENTAL SCHEDULES OF CHARGES (Schedules available upon request)

- Soils Laboratory
- Chemical Laboratory
- Chargeable Equipment Schedule

Payment

Monthly invoices are to be paid within 30 days from invoice date. Interest on late payments will be charged at a rate of 18% per annum.

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CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

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

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

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

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

BIGGS & MATHEWS ENVIRONMENTAL, INC.

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

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

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

_____
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

5 Signed by: Gregory Adams 193AE82FE1304F9...

Signature of vendor doing business with the governmental entity

10/14/2025
Date

Docusign Envelope ID: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 0B310C7A-BE3C-4006-9305-A4AB96D50CEB
Status: Sent
Subject: Please DocuSign: City Council Contract 8525-011 Cell 6 Construction Quality Assurance Service
Source Envelope:
Document Pages: 29
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
10/6/2025 8:18:15 AM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.104	Sent: 10/6/2025 8:45:59 AM Viewed: 10/6/2025 8:49:54 AM Signed: 10/6/2025 8:51:35 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 10/6/2025 8:51:37 AM Viewed: 10/6/2025 10:38:06 AM Signed: 10/6/2025 10:39:43 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/6/2025 10:39:46 AM Viewed: 10/6/2025 11:58:00 AM Signed: 10/6/2025 11:59:43 AM
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 10/7/2025 8:08:31 AM Viewed: 10/7/2025 8:08:48 AM Signed: 10/7/2025 8:09:44 AM

Signer Events	Signature	Timestamp
Gregory Adams gadams@biggsandmathews.com Principal Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/6/2025 12:22:35 PM ID: 5afab0dd-a8dc-4ec0-a01d-993afe332e46	Signed by: 193AE82FE1304F9... Signature Adoption: Pre-selected Style Using IP Address: 128.92.63.242	Sent: 10/6/2025 11:59:47 AM Resent: 10/14/2025 10:54:06 AM Viewed: 10/14/2025 1:17:33 PM Signed: 10/14/2025 2:10:52 PM
Brenda Haney brenda.haney@cityofdenton.com Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/14/2025 3:42:38 PM ID: 581eae30-8d9b-4b22-8b13-70efdb62f986	Signed by: C3C63BE563154A1... Signature Adoption: Drawn on Device Using IP Address: 47.162.123.209 Signed using mobile	Sent: 10/14/2025 2:10:55 PM Viewed: 10/14/2025 3:42:38 PM Signed: 10/14/2025 3:43:19 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/14/2025 3:43:22 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/6/2025 8:51:38 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/14/2025 3:43:22 PM Viewed: 10/14/2025 3:54:43 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Randall Morris randall.morris@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/7/2025 3:00:02 PM ID: 9088f970-624b-4eee-8c12-7695c668f624		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/6/2025 8:45:59 AM
Envelope Updated	Security Checked	10/7/2025 8:08:30 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

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

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

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

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

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

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

Required hardware and software

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

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

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

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

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

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

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Wärtsilä North America Inc., for cylinder gas admission valves for the Denton Energy Center, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8825 – awarded to Wärtsilä North America Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,415,582.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

As equipment operating hours increase, the maintenance activities also increase. During these maintenance activities, critical components require inspection or replacement for premature wear/failure. In order for the Denton Energy Center (DEC) team to manage and maintain high unit availability and reliability for our customers, performing these routine maintenance activities is critical to ensure reliability, and this contract is necessary to purchase the materials necessary to perform the hour-based, calendar-based, and corrective maintenance activities efficiently.

Thus far, we have been performing routine preventative, predictive, and corrective maintenance using on-hand inventory of gas admission valves, but are now in need of replenishment based on the failure of the component.

In efforts to minimize equipment downtime, we reached out to the gas valve manufacturer (Woodward) and were informed that the materials needed can only be purchased by Wärtsilä North America Inc., and is the only authorized supplier for the gas admission valves.

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and services are exempt from competitive bidding, if over $50,000, shall be awarded by the governing body.

RECOMMENDATION

Award with a contract to Wärtsila North America, Inc., as a sole source supplier, for gas admission valve replacement for the Denton Energy Center, in a a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,415,582.

PRINCIPAL PLACE OF BUSINESS

Wärtsilä North America, Inc.
Houston, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These items will be funded from DEC Engine Gas Valve Replacement project account 605621500. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $1,415,582.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Arthur Pando, 940-349-8653.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WÄRTSILÄ NORTH AMERICA INC., FOR CYLINDER GAS ADMISSION VALVES FOR THE DENTON ENERGY CENTER, WHICH IS THE SOLE PROVIDER OF THIS EQUIPMENT, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8825 – AWARDED TO WÄRTSILÄ NORTH AMERICA INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $1,415,582.00).

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

FILE NUMBER	VENDOR	AMOUNT
8825	Wärtsilä North America Inc.	$1,415,582.00

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

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

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Wärtsilä North America Inc., for the cylinder head valve replacement overhaul for the Denton Energy Center, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8826 – awarded to Wärtsilä North America Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $5,852,615.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

In order for the Denton Energy Center (DEC) team to maintain high unit availability, replacement valves and components installed in the cylinder head have been upgraded to 20-degree angles to help with valve recession issues. This issue can result in major equipment failure of valve breakage, and turbo damage. It has been recommended by the engine manufacturer to overhaul and change out cylinder head valves to this new valve angle design. Another important process is called swing sets, which can be used to reduce downtime, allowing for expeditious return to service timeframes. These swing sets are components of the engine that require rebuilding or repair during overhauls. The rebuilding of the component is done onsite, utilizing DEC staff or off-site at an authorized repair shop. Both methods are time-consuming, resulting in revenue potential being missed. With these major components onsite as swing sets, the outage times will be drastically reduced due to off-site shipping time frames and/or not having to rebuild/repair the parts onsite during the overhauls. The parts requiring maintenance are simply taken off the unit, and the swing set part is installed, allowing for the repair work of the removed component to take place after the unit is back available.

Other vendors, including MSHS and Goltens, were contacted in efforts to outsource the components, and it has been found that only Wärtsilä North America can provide the newly designed valve angles to install in cylinder heads. These components are manufactured by Wärtsilä and not authorized for sale by other suppliers.

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and services are exempt from competitive bidding, if over $50,000, shall be awarded by the governing body.

RECOMMENDATION

Award with a contract to Wärtsilä North America Inc., for the cylinder head valve replacement overhaul for the Denton Energy Center, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $5,852,615.00.

PRINCIPAL PLACE OF BUSINESS

Wärtsilä North America, Inc.
Houston, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These items will be funded from DEC Cylinder Head Replacement and Overhaul Services project account 605620500. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $5,852,615.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Arthur Pando, 940-349-8653.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WÄRTSILÄ NORTH AMERICA INC., FOR THE CYLINDER HEAD VALVE REPLACEMENT OVERHAUL FOR THE DENTON ENERGY CENTER, WHICH IS THE SOLE PROVIDER OF THIS EQUIPMENT, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8826 – AWARDED TO WÄRTSILÄ NORTH AMERICA INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $5,852,615.00).

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

FILE NUMBER	VENDOR	AMOUNT
8826	Wärtsilä North America Inc.	$5,852,615.00

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

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

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Roll-Offs of America, Inc. dba Roll Offs USA, for the purchase of steel refuse and recycling containers for the Solid Waste Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8885 – awarded to Roll-Offs of America, Inc. dba Roll Offs USA, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $2,666,500.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Solid Waste Department provides steel refuse and recycling containers to be used at various locations for commercial and multifamily customers across the City. These containers must meet specifications for the material and vehicle type servicing these containers. These containers are needed to replace old, defective containers or for deployment at new locations as the City continues to grow.

The specified containers will be delivered to the City of Denton, painted in either green or blue, and preprinted with inventory/tracking numbers.

Project Description	Estimated 5-Year Expenditure
FY 25-26	$415,968
FY 26-27	457,565
FY 27-28	503,321
FY 28-29	553,633
FY 29-30	609,019
Contingency	126,994
Total	**$2,666,500**

Request for Proposals was sent to 1,272 prospective suppliers of this item, including 54 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Three (3) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Based upon

this evaluation, Roll-Offs of America, Inc. dba Roll Offs USA, was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	100, 165, 545, 830, 906, 926, & 968
Notifications sent for Solicitation sent in IonWave:	1,272
Number of Suppliers that viewed Solicitation in IonWave:	18
HUB-Historically Underutilized Business Invitations sent out:	150
SBE-Small Business Enterprise Invitations sent out:	410
Responses from Solicitation:	3

RECOMMENDATION

Award a contract with Roll-Offs of America, Inc. dba Roll Offs USA, Inc., for the purchase of steel refuse and recycling containers for the Solid Waste Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $2,666,500.00.

PRINCIPAL PLACE OF BUSINESS

Roll-Offs of America, Inc. dba Roll Offs USA
Durant, OK

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These items will be funded from Solid Waste Department Operating Funds account 660200.6510. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $2,666,500.

EXHIBITS

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

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

For information concerning this acquisition, contact: Adrian Hill, 940-349-8061.

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

Exhibit 2
RFP 8885 - Pricing Evaluation for Steel Containers for Commercial Customers

				Respondent's Business Name:	Roll-Offs Of America, Inc. dba Roll Offs USA	Box Gang Manufacturing	Greenville Enterprises LLC
				Principal Place of Business (City and State):	Durant, OK		
Line #	**Description**	**QTY**	**UOM**		**Unit**	**Unit**	**Unit**
SECTION A-FRONT LOAD CONTAINERS							
2	3 CUBIC YARD-GREEN CONTAINER	172	EA		**$635.00**	$702.00	$1,580.00
3	3 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	172	EA		**$635.00**	$702.00	$1,580.00
4	4 CUBIC YARD-GREEN CONTAINER	106	EA		**$710.00**	$785.00	$2,599.00
5	4 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	106	EA		**$710.00**	$785.00	$2,699.00
6	6 CUBIC YARD SLANT TOP-GREEN CONTAINER	28	EA		**$880.00**	$1,105.00	$3,280.00
7	6 CUBIC YARD SLANT TOP-SAFETY BLUE RECYCLE CONTAINER	28	EA		**$880.00**	$1,105.00	$3,380.00
8	6 CUBIC YARD LOW PROFILE-GREEN CONTAINER	28	EA		**$930.00**	$1,105.00	$3,380.00
9	6 CUBIC YARD LOW PROFILE-SAFETY BLUE RECYCLE CONTAINER	28	EA		**$930.00**	$1,105.00	$3,390.00
10	6 CUBIC YARD HIGH PROFILE-GREEN CONTAINER	28	EA		**$940.00**	$1,105.00	$3,425.00
11	6 CUBIC YARD HIGH PROFILE-SAFETY BLUE RECYCLE CONTAINER	28	EA		**$940.00**	$1,105.00	$3,550.00
12	8 CUBIC YARD SLANT TOP-GREEN CONTAINER	68	EA		**$1,050.00**	$1,176.00	$4,850.00
13	8 CUBIC YARD SLANT TOP-SAFETY BLUE RECYCLE CONTAINER	68	EA		**$1,050.00**	$1,176.00	$4,850.00
14	8 CUBIC YARD LOW PROFILE-GREEN CONTAINER	68	EA		**$1,075.00**	$1,176.00	$4,850.00
15	8 CUBIC YARD LOW PROFILE-SAFETY BLUE RECYCLE CONTAINER	68	EA		**$1,075.00**	$1,176.00	$4,850.00
16	8 CUBIC YARD HIGH PROFILE-GREEN CONTAINER	68	EA		**$1,075.00**	$1,176.00	$4,850.00
17	8 CUBIC YARD HIGH PROFILE-SAFETY BLUE RECYCLE CONTAINER	68	EA		**$1,075.00**	$1,176.00	$4,850.00
18	3 CUBIC YARD without Lids-SAFETY BLUE RECYCLE	1	EA		**$605.00**	$672.00	$1,580.00
19	4 CUBIC YARD without Lids-SAFETY BLUE RECYCLE	1	EA		**$675.00**	$755.00	$2,599.00
20	6 CUBIC YARD SLANT FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$840.00**	$1,075.00	$3,380.00
21	6 CUBIC YARD 2D LOW FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$890.00**	$1,075.00	$2,680.00
22	6 CUBIC YARD 2DR HIGH FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$900.00**	$1,075.00	$2,860.00
23	8 CUBIC YARD SLANT FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$1,010.00**	$1,146.00	$3,800.00
24	8 CUBIC YARD 2D LOW FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$1,035.00**	$1,146.00	$3,800.00
25	8 CUBIC YARD 2DR HIGH FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA		**$1,035.00**	$1,146.00	$3,800.00
SECTION B-SIDE LOAD CONTAINERS							
27	3 CUBIC YARD-GREEN CONTAINER	172	EA		**$610.00**	$854.00	$1,580.00
28	3 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	172	EA		**$610.00**	$854.00	$1,580.00
29	4 CUBIC YARD-GREEN CONTAINER	106	EA		**$690.00**	$972.00	$2,699.00
30	4 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	106	EA		**$690.00**	$972.00	$2,699.00
31	3 CUBIC YARD ORGANIC-GRIT BLAST & LINED	172	EA		**$1,950.00**	$1,104.00	$1,599.00

Exhibit 2
RFP 8885 - Pricing Evaluation for Steel Containers for Commercial Customers

				Respondent's Business Name:	Roll-Offs Of America, Inc. dba Roll Offs USA	Box Gang Manufacturing	Greenville Enterprises LLC
				Principal Place of Business (City and State):	Durant, OK		
Line #	**Description**	**QTY**	**UOM**		**Unit**	**Unit**	**Unit**
SECTION C-ROLL OFF OPEN TOP CONTAINERS							
33	15 CUBIC YARD-GREEN CONTAINER	6	EA		**$4,500.00**	$5,120.00	$1,280.00
34	15 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	6	EA		**$4,500.00**	$5,120.00	$1,280.00
35	20 CUBIC YARD-GREEN CONTAINER	6	EA		**$4,620.00**	$5,320.00	$1,480.00
36	20 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	6	EA		**$4,620.00**	$5,320.00	$1,480.00
37	30 CUBIC YARD-GREEN CONTAINER	20	EA		**$5,110.00**	$5,744.00	$1,599.00
38	30 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	20	EA		**$5,110.00**	$5,744.00	$1,600.00
39	30YD Standard Bathtub	1	EA		**$4,900.00**	$5,744.00	$3,200.00
40	20 YARD-HEAVY DUTY RECTANGULAR	1	EA		**$4,855.00**	$6,197.00	$3,400.00
41	40 YARD-HEAVY DUTY-RECTANGULAR	6	EA		**$6,435.00**	$7,898.00	$3,600.00
42	42/YD/46YD SUPER DUTY ENCLOSED CONTAINER	1	EA		**$11,775.00**	$11,250.00	$3,800.00
SECTION D-ADDITIONAL LIDS							
44	LID, FRONT LOAD 3 CUBIC YARD	1	EA		**$33.00**	$20.00	$220.00
45	LID, FRONT LOAD 4 CUBIC YARD	1	EA		**$33.00**	$20.00	$230.00
46	LID, FRONT LOAD 6 CUBIC YARD	1	EA		**$36.00**	$20.00	$240.00
47	LID, FRONT LOAD 8 CUBIC YARD	1	EA		**$36.00**	$20.00	$260.00
48	LID, FRONT LOAD 10 CUBIC YARD	1	EA		**$36.00**	$20.00	$280.00
49	LID,SINGLE WALL 36"X58"	1	EA		**$36.00**	$20.00	$150.00
50	LID,SINGLE WALL 36"X46"	1	EA		**$33.00**	$20.00	$125.00
51	Automatic Lid Lock	1	EA		**$115.00**	$88.00	$280.00
52	AUTO BAR LID LOCK FOR SIDE LOADER - MLIDLOCA	1	EA		**$105.00**	$88.00	$125.00
53	PL 74x48 Black Slotted Recycle Lids for 3yd/4yd	1	EA		**$120.00**	$20.00	$180.00
54	PL 36x58 Black Slotted Recycle Lids for 6yd/8yd	1	EA		**$76.00**	$20.00	$165.00
55	PL 36x48 Black Slotted Recycle Lids for 3yd/4yd	1	EA		**$74.00**	$20.00	$145.00
SECTION E-REPLACEMENT FLOORS							
57	DUMPSTER FLOOR 49"X59"X6"-10 GAUGE STEEL	1	EA		**$300.00**	*No Bid*	$1,500.00
58	DUMPSTER FLOOR 43"X73"X6"-10 GAUGE STEEL	1	EA		**$340.00**	*No Bid*	$1,600.00
59	DUMPSTER FLOOR 73"X73"X6"-10 GAUGE STEEL	1	EA		**$440.00**	*No Bid*	$1,700.00
60	DUMPSTER FLOOR 81"X73"X6"-10 GAUGE STEEL	1	EA		**$450.00**	*No Bid*	$1,800.00
61	4YD Replacement Floor 54 x 72 , 6” LIP, Drain Flange, Primer	1	EA		**$360.00**	*No Bid*	$280.00
SECTION F-RODS							
63	DUMPSTER LID ROD .05"X61.5"	1	EA		**$10.00**	$5.40	$180.00
64	DUMPSTER LID ROD .05"X76"	1	EA		**$11.00**	$6.10	$150.00

Exhibit 2
RFP 8885 - Pricing Evaluation for Steel Containers for Commercial Customers

				Respondent's Business Name:	**Roll-Offs Of America, Inc. dba Roll Offs USA**	Box Gang Manufacturing	Greenville Enterprises LLC
				Principal Place of Business (City and State):	**Durant, OK**		
Line #	**Description**	**QTY**	**UOM**		**Unit**	**Unit**	**Unit**
SECTION G-COMPACTORS							
66	35 Yard Compactor (Self Contained)	3	EA		**$23,000.00**	$30.00	$38,000.00
67	30 Yard Compactor (Self Contained)	3	EA		**$22,000.00**	$27,000.00	$35,500.00
68	38 YD/42 Yard Compactor (Self Contained)	3	EA		**$27,000.00**	$34,000.00	$42,000.00
69	Receiver Box Replacement (42 yard)	1	EA		**$9,900.00**	$9,400.00	$6,800.00
70	Power Unit-10HP 3 Phase	1	EA		**$6,100.00**	*No Bid*	$8,200.00
71	Power Unit-10HP, SINGLE Phase	1	EA		**$8,300.00**	*No Bid*	$7,800.00
72	SmartPack Option Pendant	1	EA		**$775.00**	*No Bid*	$680.00
73	Ratchet Jack Clevis 1x1 for self contained Compactor Door	1	EA		**$130.00**	*No Bid*	$480.00
74	Optimate EA3-S3ML-R Scanner	1	EA		**$420.00**	*No Bid*	$580.00
75	Self-Contained Compactor T-Seal (1 Roll of T-Seal, 28.5' per roll), Item #XHSCTSEAL	1	EA		**$175.00**	*No Bid*	$32,500.00
76	HSC DOGHOUSE 2DR FRT DOCK FED DOCK STYLE HOPPER-2 FRONT DOORS	1	Per Roll		**$1,750.00**	*No Bid*	$1,650.00
77	REMOTE PENDANT W/SMARTPACK W/KEYLESS ENTRY INCLUDES MOUNTING BRACKET	1	EA		**$1,450.00**	*No Bid*	$680.00
78	KEYLESS ENTRY FOR COMPACTOR INCLUDES MOUNTING BRACKET	1	EA		**$850.00**	*No Bid*	$580.00
79	PUSH BUTTON RED - XHC2EPBESTOP	1	EA		**$71.00**	*No Bid*	$135.00
80	ON/OFF KEY SWITCH - XHC2EKEYSW	1	EA		**$98.00**	*No Bid*	$180.00
81	PUSH BUTTON GREEN - XHC2EP8GREEN	1	EA		**$32.00**	*No Bid*	$130.00
82	Container Guides	1	EA		**$425.00**	$500.00	$300.00
SECTION H-MISCELLANEOUS							
84	PAINTED CONTAINER NUMBERING-WHITE	1	PER CONTAINER		**$5.00**	$10.00	$280.00
85	PTEG EMSCO Green #90D32-5 Gal	1	EA		**$230.00**	*No Bid*	$680.00
86	PTSB Safety Blue #90E30-5 Gal	1	EA		**$240.00**	*No Bid*	$680.00
87	EMSCO Green Aerosol Paint 1 Case (24 cans)	1	PER CASE		**$425.00**	*No Bid*	$480.00
88	Safety Blue Aerosol Paint 1 Case (24 cans)	1	PER CASE		**$440.00**	*No Bid*	$420.00

Evaluation

Item #	**Standard Criteria**	**Roll-Offs Of America, Inc. dba Roll Offs USA**	Box Gang Manufacturing	Greenville Enterprises LLC
1	Delivery/Project Schedule - 20%	**12.00**	12.80	18.40
2	Compliance with Specifications - 20%	**16.80**	8.80	8.80
3	Probable Performance - 30%	**24.00**	18.00	10.80
4	Price, Total Cost of Ownership - 30%	**30.00**	28.89	12.61
	Total Score:	**82.80**	68.49	50.61

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ROLL-OFFS OF AMERICA, INC. DBA ROLL OFFS USA, FOR THE PURCHASE OF STEEL REFUSE AND RECYCLING CONTAINERS FOR THE SOLID WASTE DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8885 – AWARDED TO ROLL-OFFS OF AMERICA, INC. DBA ROLL OFFS USA, FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $2,666,500.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for the purchase of steel refuse and recycling containers for the Solid Waste Department; and

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

RFP NUMBER	CONTRACTOR	AMOUNT
8885	Roll-Offs of America, Inc. dba Roll Offs USA	$2,666,500.00

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

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

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Docusign City Council Transmittal Coversheet

RFP	8885
File Name	STEEL CONTAINERS FOR COMMERCIAL CUSTOMERS
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND ROLL-OFFS OF AMERICA, INC. dba ROLL-OFFS USA
(Contract #8885)

THIS CONTRACT is made and entered into this date _____, by and between ROLL-OFFS OF AMERICA, INC. dba ROLL OFFS USA a Oklahoma corporation, whose address PO BOX 727, DURANT, OK, 74702, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City's RFP # 8885 Steel Containers for Commercial Customers, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's RFP 8885 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Contractor's Proposal ("Contractor's Offer") **(Exhibit "E")**;
(f) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "F")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains

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

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

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

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

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

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

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

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

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

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CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
_____ CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

CONTRACTOR

BY: DocuSigned by: Kendell Phillips 2AB22F7B85CB4B5...
AUTHORIZED SIGNATURE

Printed Name: Kendell Phillips

Title: Director

5809246355
PHONE NUMBER

kphillips@rolloffs.net
EMAIL ADDRESS

2025-1352841
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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

Signed by: Brenda Haney C3C63BE563154A1...
SIGNATURE

Brenda Haney
PRINTED NAME

Director
TITLE

Solid Waste
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. The Quantities

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

2. Product Changes During Contract Term

The Contractor shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to purchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the contractor's expense. Products that have been installed will be replaced at the contractor's expense.

3. Authorized Distributor

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

4. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Contractor shall have the option to renew this contract for an additional four (4) one-year periods.

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

5. Price Escalation and De-escalation

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

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limit per year. The Contractor should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

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

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

6. Total Contract Amount

The contract total shall not exceed $2,666,500. Pricing shall be per Exhibit E attached.

7. Delivery Lead Time

Products or services will be delivered 3-4 weeks after the receipt of order from the City.

8. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

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Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

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

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

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

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A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs, or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs.
C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

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

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

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

12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

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applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

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

13. **PAYMENT**:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

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

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

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

i. delivery of defective or non-conforming deliverables by the Contractor;

ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;

iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;

v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or

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

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

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

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electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

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

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

17. **RIGHT TO AUDIT**:
A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have

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electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

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

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

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

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without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

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

v. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. **WARRANTY – TITLE**: **THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.**

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the

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U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

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

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:
A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

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losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

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

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

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Solicitation and the Insurance Exhibit.

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

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RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon

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delivery of such deliverables to the City or at such other time as the City may request.
C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

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

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

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

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

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that

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solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

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

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

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

50. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either

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the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

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

53. **DISPUTE RESOLUTION**:

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

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

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for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
C. The parties shall not be required to submit to binding arbitration.

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

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

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

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

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

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

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

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined
in the ADA.

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-
(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

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iv. “End product” means those articles, materials, and supplies to be acquired under the contract for public use.
v. “Foreign end product” means an end product other than a domestic end product.
vi. “United States” means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled “Buy American Act Certificate”.

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

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

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

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

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

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

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

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

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

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

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

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access

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

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

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

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Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

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

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

Docusign Envelope ID: F0A37EEA-A734-4372-A728-C567806C65DD

EXHIBIT E

Line #	Description	QTY	UOM	Roll Offs USA (Roll-Offs Of America, Inc.) BAFO Pricing
	SECTION A-FRONT LOAD CONTAINERS			
2	3 CUBIC YARD-GREEN CONTAINER	172	EA	$635.00
3	3 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	172	EA	$635.00
4	4 CUBIC YARD-GREEN CONTAINER	106	EA	$710.00
5	4 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	106	EA	$710.00
6	6 CUBIC YARD SLANT TOP-GREEN CONTAINER	28	EA	$880.00
7	6 CUBIC YARD SLANT TOP-SAFETY BLUE RECYCLE CONTAINER	28	EA	$880.00
8	6 CUBIC YARD LOW PROFILE-GREEN CONTAINER	28	EA	$930.00
9	6 CUBIC YARD LOW PROFILE-SAFETY BLUE RECYCLE CONTAINER	28	EA	$930.00
10	6 CUBIC YARD HIGH PROFILE-GREEN CONTAINER	28	EA	$940.00
11	6 CUBIC YARD HIGH PROFILE-SAFETY BLUE RECYCLE CONTAINER	28	EA	$940.00
12	8 CUBIC YARD SLANT TOP-GREEN CONTAINER	68	EA	$1,050.00
13	8 CUBIC YARD SLANT TOP-SAFETY BLUE RECYCLE CONTAINER	68	EA	$1,050.00
14	8 CUBIC YARD LOW PROFILE-GREEN CONTAINER	68	EA	$1,075.00
15	8 CUBIC YARD LOW PROFILE-SAFETY BLUE RECYCLE CONTAINER	68	EA	$1,075.00
16	8 CUBIC YARD HIGH PROFILE-GREEN CONTAINER	68	EA	$1,075.00
17	8 CUBIC YARD HIGH PROFILE-SAFETY BLUE RECYCLE CONTAINER	68	EA	$1,075.00
18	3 CUBIC YARD without Lids-SAFETY BLUE RECYCLE	1	EA	$605.00
19	4 CUBIC YARD without Lids-SAFETY BLUE RECYCLE	1	EA	$675.00
20	6 CUBIC YARD SLANT FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$840.00
21	6 CUBIC YARD 2D LOW FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$890.00
22	6 CUBIC YARD 2DR HIGH FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$900.00
23	8 CUBIC YARD SLANT FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$1,010.00
24	8 CUBIC YARD 2D LOW FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$1,035.00
25	8 CUBIC YARD 2DR HIGH FLOOR without Lids-SAFETY BLUE RECYCLE	1	EA	$1,035.00
	SECTION B-SIDE LOAD CONTAINERS			
27	3 CUBIC YARD-GREEN CONTAINER	172	EA	$610.00
28	3 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	172	EA	$610.00
29	4 CUBIC YARD-GREEN CONTAINER	106	EA	$690.00
30	4 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	106	EA	$690.00
31	3 CUBIC YARD ORGANIC-GRIT BLAST & LINED	172	EA	$1,950.00
	SECTION C-ROLL OFF OPEN TOP CONTAINERS			
33	15 CUBIC YARD-GREEN CONTAINER	6	EA	$4,500.00
34	15 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	6	EA	$4,500.00

Docusign Envelope ID: F0A37EEA-A734-4372-A728-C567806C65DD

Line #	Description	QTY	UOM	BAFO Pricing
35	20 CUBIC YARD-GREEN CONTAINER	6	EA	$4,620.00
36	20 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	6	EA	$4,620.00
37	30 CUBIC YARD-GREEN CONTAINER	20	EA	$5,110.00
38	30 CUBIC YARD-SAFETY BLUE RECYCLE CONTAINER	20	EA	$5,110.00
39	30YD Standard Bathtub	1	EA	$4,900.00
40	20 YARD-HEAVY DUTY RECTANGULAR	1	EA	$4,855.00
41	40 YARD-HEAVY DUTY-RECTANGULAR	6	EA	$6,435.00
42	46YD SUPER DUTY ENCLOSED CONTAINER	1	EA	$11,775.00
	SECTION D-ADDITIONAL LIDS			
44	LID, FRONT LOAD 3 CUBIC YARD	1	EA	$33.00
45	LID, FRONT LOAD 4 CUBIC YARD	1	EA	$33.00
46	LID, FRONT LOAD 6 CUBIC YARD	1	EA	$36.00
47	LID, FRONT LOAD 8 CUBIC YARD	1	EA	$36.00
48	LID, FRONT LOAD 10 CUBIC YARD	1	EA	$36.00
49	LID,SINGLE WALL 36"X58"	1	EA	$36.00
50	LID,SINGLE WALL 36"X46"	1	EA	$33.00
51	Automatic Lid Lock	1	EA	$115.00
52	AUTO BAR LID LOCK FOR SIDE LOADER - MLIDLOCA	1	EA	$105.00
53	PL 74x48 Black Slotted Recycle Lids for 3yd/4yd	1	EA	$120.00
54	PL 36x58 Black Slotted Recycle Lids for 6yd/8yd	1	EA	$76.00
55	PL 36x48 Black Slotted Recycle Lids for 3yd/4yd	1	EA	$74.00
	SECTION E-REPLACEMENT FLOORS			
57	DUMPSTER FLOOR 49"X59"X6"-10 GAUGE STEEL	1	EA	$300.00
58	DUMPSTER FLOOR 43"X73"X6"-10 GAUGE STEEL	1	EA	$340.00
59	DUMPSTER FLOOR 73"X73"X6"-10 GAUGE STEEL	1	EA	$440.00
60	DUMPSTER FLOOR 81"X73"X6"-10 GAUGE STEEL	1	EA	$450.00
61	4YD Replacement Floor 54 x 72 , 6” LIP, Drain Flange, Primer	1	EA	$360.00
	SECTION F-RODS			
63	DUMPSTER LID ROD .05"X61.5"	1	EA	$10.00
64	DUMPSTER LID ROD .05"X76"	1	EA	$11.00
	SECTION G-COMPACTORS			
66	35 Yard Compactor (Self Contained)	3	EA	$23,000.00
67	30 Yard Compactor (Self Contained)	3	EA	$22,000.00
68	42 Yard Compactor (Self Contained)	3	EA	$27,000.00
69	Receiver Box Replacement (42 yard)	1	EA	$9,900.00
70	Power Unit-10HP 3 Phase	1	EA	$6,100.00
71	Power Unit-10HP, SINGLE Phase	1	EA	$8,300.00
72	SmartPack Option Pendant	1	EA	$775.00

Docusign Envelope ID: F0A37EEA-A734-4372-A728-C567806C65DD

Line #	Description	QTY	UOM	BAFO Pricing
73	Ratchet Jack Clevis 1x1 for self contained Compactor Door	1	EA	$130.00
74	Optimate EA3-S3ML-R Scanner	1	EA	$420.00
75	Self-Contained Compactor T-Seal (1 Roll of T-Seal, 28.5’ per roll), Item #XHSCTSEAL	1	EA	$175.00
76	HSC DOGHOUSE 2DR FRT DOCK FED DOCK STYLE HOPPER-2 FRONT DOORS	1	Per Roll	$1,750.00
77	REMOTE PENDANT W/SMARTPACK W/KEYLESS ENTRY INCLUDES MOUNTING BRACKET	1	EA	$1,450.00
78	KEYLESS ENTRY FOR COMPACTOR INCLUDES MOUNTING BRACKET	1	EA	$850.00
79	PUSH BUTTON RED - XHC2EPBESTOP	1	EA	$71.00
80	ON/OFF KEY SWITCH - XHC2EKEYSW	1	EA	$98.00
81	PUSH BUTTON GREEN - XHC2EP8GREEN	1	EA	$32.00
82	Container Guides	1	EA	$425.00
	SECTION H-MISCELLANEOUS			
84	PAINTED CONTAINER NUMBERING-WHITE	1	PER CONTAINER	$5.00
85	PTEG EMSCO Green #90D32-5 Gal	1	EA	$230.00
86	PTSB Safety Blue #90E30-5 Gal	1	EA	$240.00
87	EMSCO Green Aerosol Paint 1 Case (24 cans)	1	PER CASE	$425.00
88	Safety Blue Aerosol Paint 1 Case (24 cans)	1	PER CASE	$440.00

Docusign Envelope ID: F0A37EEA-A734-4372-A728-C567806C65DD

EXHIBIT F

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

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

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

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

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

ROLL-OFFS OF AMERICA, INC. dba ROLL-OFFS USA

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

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

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

N/A

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

5 DocuSigned by: Kendell Phillips 2AB22F7B85CB4B5...

Signature of vendor doing business with the governmental entity

9/25/2025

Date

Docusign Envelope ID: F0A37EEA-A734-4372-A728-C567806C65DD

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

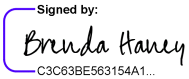
Envelope Id: F0A37EEA-A734-4372-A728-C567806C65DD
Status: Sent
Subject: Please DocuSign: City Council Contract 8885 Steel Containers for Commercial Customers
Source Envelope:
Document Pages: 33
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
9/24/2025 4:49:31 PM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 9/24/2025 4:51:09 PM Viewed: 9/24/2025 4:51:19 PM Signed: 9/24/2025 4:52:18 PM
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/24/2025 4:52:21 PM Viewed: 9/25/2025 8:25:11 AM Signed: 9/25/2025 8:25:56 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/25/2025 8:25:59 AM Viewed: 9/25/2025 3:48:28 PM Signed: 9/25/2025 3:49:21 PM
Kendell Phillips kphillips@rolloffs.net Director Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/1/2020 8:21:30 AM ID: ae8d56fe-d9c6-471b-8734-d46e7805f1c6	DocuSigned by: 2AB22F7B85CB4B5... Signature Adoption: Pre-selected Style Using IP Address: 12.206.139.180	Sent: 9/25/2025 3:49:23 PM Viewed: 9/25/2025 3:50:31 PM Signed: 9/25/2025 3:54:03 PM

Signer Events	Signature	Timestamp
Brenda Haney brenda.haney@cityofdenton.com Director Security Level: Email, Account Authentication (None)	Signed by:  C3C63BE563154A1... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/25/2025 3:54:06 PM Viewed: 9/25/2025 3:59:17 PM Signed: 9/25/2025 3:59:39 PM
Electronic Record and Signature Disclosure: Accepted: 9/25/2025 3:59:17 PM ID: b856f171-1d48-42d3-ac8f-ee1054757b8b		
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 9/25/2025 3:59:42 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 9/24/2025 4:52:21 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 9/25/2025 3:59:42 PM Viewed: 9/30/2025 10:40:54 AM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Adrian Hill adrian.hill@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 6/18/2025 11:46:48 AM ID: 40db61d1-3b6f-4778-bc8e-9fd8d7ebfece		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/24/2025 4:51:09 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

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

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

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

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

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

Required hardware and software

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

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

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

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

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

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

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Brandon & Clark, Inc., for motor and blower parts, repair, services, and rebuild of motors and blowers at the Denton Energy Center, Water Production and Reclamation facilities; providing for the expenditure of funds therefor; and providing an effective date (RFP 8818 – awarded to Brandon & Clark, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,457,500.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Denton Energy Center (DEC) utilizes electric motors for its radiator fans on the cooling water system to ensure proper cooling is provided to each of the 12 engines located at the DEC, thereby preventing overheating that could result in shutdown or failure of the unit.

The Water Production Department uses various electric motors to drive each pump within the two (2) departments (Water Production and Water Reclamation). Pumps are used at the Lake Lewisville Raw Water Intake to pump untreated lake water to the Lake Lewisville Water Treatment Plant. These services are essential to the treatment processes that ensure the delivery of safe, potable water for the City of Denton and surrounding communities. The agreement will support uninterrupted operations at the water production facilities.

Water Production and Reclamation Departments use various blowers to backwash filters at both Water Production and Reclamation plants as part of the treatment processes. These services are essential to the treatment processes that ensure the delivery of safe, potable water for the City of Denton and surrounding communities. The agreement will support uninterrupted operations at the Water Production and Reclamation facilities.

	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	Total
DEC Spend-Motor	$100,000	$110,000	$120,000	$130,000	$140,000	$600,000
Water Reclamation Spend-Motor	5,000	5,000	5,000	5,000	5,000	25,000
Water Production Spend-Motor	100,000	110,000	120,000	130,000	140,000	600,000
Water Production Spend-Blower	20,000	20,000	20,000	20,000	20,000	100,000
Contingency						132,500
Total						**$1,457,500**

Request for Proposals was sent to 298 prospective suppliers of this item, including five (5) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Four (4) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Based upon this evaluation, Brandon and Clark, Inc. was ranked the highest for Section 1 – Mowers and Section 3 – Blowers, and determined to be the best value for the City.

NIGP Code Used for Solicitation:	640 - Power Generation Equipment, Accessories, and Supplies
Notifications sent for Solicitation sent in IonWave:	298
Number of Suppliers that viewed Solicitation in IonWave:	17
HUB-Historically Underutilized Business Invitations sent out:	19
SBE-Small Business Enterprise Invitations sent out:	107
Responses from Solicitation:	4

RECOMMENDATION

Award a contract with Brandon & Clark, Inc., for motor and blowers parts, repair, services and rebuild of motors and blowers at the Denton Energy Center, Water Production and Reclamation facilities, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $1,457,500.

PRINCIPAL PLACE OF BUSINESS

Brandon & Clark, Inc.
Fort Worth, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products and services will be funded from Denton Energy Center, Water Production, and Reclamation Facilities accounts. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $1,457,500. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

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

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

For information concerning this acquisition, contact: Trever Heskett, 940-349-7627.

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

Exhibit 2
RFP 8818 - Pricing Evaluation for Pumps, Blowers, Motor Repairs, and Services

				Brandon & Clark Inc.	Smith Pump Company	Johnson Electric Motor Inc.	G&M Mechanical Engineering LLC
			Respondent's Business Name:				
			Principal Place of Business (City and State):	Lubbock, TX	Fort Worth, TX	Lewisville, TX	Port St. Lucie, FL
Line #	**Description**	**Qty**	**UOM**	**Unit**	**Unit**	**Unit**	**Unit**
Section I - Motors							
2	Vibration Testing	1	EA	**$923.00**	$1,260.00	$1,200.00	$1,500.00
3	Alignment	1	EA	**$1,846.00**	$1,260.00	$1,200.00	$1,500.00
4	Hourly Rate: Normal Working Hours	1	HR	**$125.00**	$110.00	$90.00	$150.00
5	Hourly Rate: After Hours, Weekends, Overtime	1	HR	**$187.50**	$165.00	$135.00	$225.00
6	Hourly Rate: Crane Rental	1	HR	**$432.00**	$205.00	no bid	no bid
7	Hourly Rate: Emergency Repairs	1	HR	**$187.50**	$165.00	$135.00	$310.00
8	Motor Inspection and Rewind Services-provide an hourly rate	1	HR	**$375.00**	$110.00	$135.00	no bid
9	Motor-BROOK CROMPTON WE2001, 12HP, 440-480V, 580RPM, WU-DA286TD-R-provide an hourly rate for an overhaul service	1	HR	**$4,046.00**	$110.00	no bid	no bid
10	6310-DE Bearing	1	EA	**$34.38**	$38.00	$70.85	no bid
11	6308-ODE Bearing	1	EA	**$15.25**	$22.00	$51.39	no bid
12	50 x 65 x 8 Lip Seal	1	EA	**$6.60**	$9.00	$50.00	no bid
13	EZE Sleeve 6210/6308 30MM	1	EA	**$16.18**	$36.00	$40.00	no bid
14	BAM/B-6 Terminal Block	1	EA	**$43.13**	$82.00	$85.00	no bid
15	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc.			**15% on Parts / 20% on New Equipment**	no bid	20.0%	no bid
16	Test Equipment- PdMA & Baker AWA	1	EA	**$625.00**	$1,260.00	$160.50	$1,260.00

Evaluation
Round 1

Item #	**Scoring Criteria**	Smith Pump Company	Brandon & Clark Inc.	Johnson Electric Motor Inc.	G&M Mechanical Engineering LLC
1	Delivery/Project Schedule - 30%	21.00	19.50	16.50	9.00
2	Compliance with Specifications - 30%	19.50	21.00	18.00	13.50
3	Probable Performance - 20%	16.00	16.00	11.00	11.00
4	Price, Total Cost of Ownership - 20%	20.00	10.90	12.34	9.57
	Total Score:	76.50	67.40	57.84	43.07

Round 2 - after interviews

Item #	**Scoring Criteria**	**Brandon & Clark Inc.**	Smith Pump Company
1	Delivery/Project Schedule - 30%	25.50	15.00
2	Compliance with Specifications - 30%	24.00	16.50
3	Probable Performance - 20%	17.00	11.00
4	Price, Total Cost of Ownership - 20%	10.90	20.00
	Total Score:	**77.40**	62.50

Exhibit 2
RFP 8818 - Pricing Evaluation for Pumps, Blowers, Motor Repairs, and Services

				Respondent's Business Name:	**Brandon & Clark Inc.**	G&M Mechanical Engineering LLC
				Principal Place of Business (City and State):	**Lubbock, TX**	Port St. Lucie, FL
Line #	**Description**	**Qty**	**UOM**		**Unit**	**Unit**
Section III - Blowers						
27	Vibration Testing	1	EA		**$923.00**	$1,500.00
28	Alignment	1	EA		**$1,846.00**	$1,500.00
29	Hourly Rate: Normal Working Hours	1	HR		**$125.00**	$150.00
30	Hourly Rate: After Hours, Weekends, Overtime	1	HR		**$187.50**	$225.00
31	Hourly Rate: Crane Rental	1	HR		**$432.00**	no bid
32	Hourly Rate: Emergency Repairs	1	HR		**$187.50**	$310.00
33	Blower Inspections	1	EA		**$375.00**	no bid
34	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc.**MARKUP RATE				**15% on Parts / 20% on New Equipment**	no bid

Evaluation			
Item #	**Scoring Criteria**	**Brandon & Clark Inc.**	G&M Mechanical Engineering LLC
1	Delivery/Project Schedule - 30%	**20.00**	12.00
2	Compliance with Specifications - 30%	**24.00**	10.00
3	Probable Performance - 20%	**17.33**	8.00
4	Price, Total Cost of Ownership - 20%	**20.00**	18.15
	Total Score:	**81.33**	48.15

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BRANDON & CLARK, INC., FOR MOTOR AND BLOWER PARTS, REPAIR, SERVICES AND REBUILD OF MOTORS AND BLOWERS AT THE DENTON ENERGY CENTER, WATER PRODUCTION AND RECLAMATION FACILITIES; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8818 – AWARDED TO BRANDON & CLARK, INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $1,457,500.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for motor and blower parts, repair, services, and rebuild of motors and blowers at the Denton Energy Center, Water Production and Reclamation facilities; and

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

RFP NUMBER	CONTRACTOR	AMOUNT
8818	Brandon & Clark, Inc.	$1,457,500.00

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

Proposals, and related documents.

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

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Docusign City Council Transmittal Coversheet

RFP	8818
File Name	PUMP, BLOWER, MOTOR REPAIRS & SERVICES-BRANDON & CLARK
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND BRANDON & CLARK, INC.
(Contract #8818)

THIS CONTRACT is made and entered into this date _____, by and between BRANDON & CLARK, INC. a Texas corporation, whose address 2475 East Long Ave, Fort Worth, TX 76106, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's RFP #8818 Pump, Blower, Motor Repairs and Services, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's RFP #8818 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Contractor's Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains

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

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

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

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

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

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

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

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

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

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CONTRACTOR

BY: Signed by: Josh Clark 28F1EEEF370246A...
AUTHORIZED SIGNATURE

Printed Name: Josh Clark

Title: Sr Vice President

8067715600
PHONE NUMBER

joshclark@brandonclark.com
EMAIL ADDRESS

2025- 1379643
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
_____ CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

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

Antonio Puente, Jr.
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The total contract for Section I & III of RFP 8818, which Section I & III only is awarded by this Contract for the supply of Motors and Blowers, shall not exceed $1,457,500.00. Pricing shall be per Exhibit F attached.

2. The Quantities

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

3. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

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

4. Price Escalation and De-escalation

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

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

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Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

5. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

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Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

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

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.
A. The Contractor shall employ only orderly and competent workers, skilled in the performance

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

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

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

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

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

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

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

12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the

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Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:
A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.
B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, including, but not limited to, those in Paragraph D , below, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches such shipment or delivery.
D. The City may withhold or set off the entire payment or part of any payment otherwise due to the Contractor to such extent as may be necessary on account of:

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

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.
F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges,

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surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

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

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

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

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this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

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

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

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as

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a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. **WARRANTY – TITLE**: **THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.**

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event

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the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.
A. Recycled deliverables shall be clearly identified as such.
B. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable federal, State, and local laws, rules or regulations.
A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.
B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
C. If the Contractor is unable or unwilling to perform its services in accordance with the above

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standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without

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limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to

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

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

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

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

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE**

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CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its

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employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

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

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

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

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

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: The Contractor agrees to comply with the conflict of interest provisions of the City of Denton Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute

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impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

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

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

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

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

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express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

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

53. **DISPUTE RESOLUTION**:

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

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

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participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
C. The parties shall not be required to submit to binding arbitration.

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

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

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

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

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

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

58. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

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

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

A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.

B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.

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

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

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

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

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

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

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

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

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v. “Foreign end product” means an end product other than a domestic end product.
vi. “United States” means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled “Buy American Act Certificate”.

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

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

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

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

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

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

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

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

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

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

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

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be

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

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

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

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Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

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

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

Docusign Envelope ID: 5BCC1CFB-816B-45D1-AE13-C335C7AAD48E

EXHIBIT E

INSURANCE REQUIREMENTS

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

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

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

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

- Liability policies shall be endorsed to provide the following:

    - Name as Additional Insured the City of Denton, its Officials, Agents,

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Employees and volunteers.

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

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

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

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

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

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

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

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

Docusign Envelope ID: 5BCC1CFB-816B-45D1-AE13-C335C7AAD48E

B. Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: $100,000.00 Each Accident
Bodily Injury by Disease: $100,000.00 Each Employee
Bodily Injury by Disease: $500,000.00 Policy Limit

NOTES:

a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of $500,000.00 per occurrence.

NOTE:

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

D. Professional Liability Insurance

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

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SUBCONTRACTING LIABILITY

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

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

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EXHIBIT F

Line #	Description	QTY	UOM	Brandon & Clark Inc. Unit
	Section I - Motors			
2	Vibration Testing	1	EA	$923.00
3	Alignment	1	EA	$1,846.00
4	Hourly Rate: Normal Working Hours	1	HR	$125.00
5	Hourly Rate: After Hours, Weekends, Overtime	1	HR	$187.50
6	Hourly Rate: Crane Rental	1	HR	$432.00
7	Hourly Rate: Emergency Repairs	1	HR	$187.50
8	Motor Inspection and Rewind Services-provide an hourly rate	1	HR	$375.00
9	Motor-BROOK CROMPTON WE2001, 12HP, 440-480V, 580RPM, WU-DA286TD-R-provide an hourly rate for an overhaul service	1	HR	$4,046.00
10	6310-DE Bearing	1	EA	$34.38
11	6308-ODE Bearing	1	EA	$15.25
12	50 x 65 x 8 Lip Seal	1	EA	$6.60
13	EZE Sleeve 6210/6308 30MM	1	EA	$16.18
14	BAM/B-6 Terminal Block	1	EA	$43.13
15	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc. ***MARKUP RATE			15% on Parts/20% on New Equipment
16	Test Equipment- PdMA & Baker AWA	1	EA	$625.00
	Section III - Blowers			
27	Vibration Testing	1	EA	$923.00
28	Alignment	1	EA	$1,846.00
29	Hourly Rate: Normal Working Hours	1	HR	$125.00
30	Hourly Rate: After Hours, Weekends, Overtime	1	HR	$187.50
31	Hourly Rate: Crane Rental	1	HR	$432.00
32	Hourly Rate: Emergency Repairs	1	HR	$187.50
33	Blower Inspections	1	EA	$375.00
34	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc. ***MARKUP RATE			15% on Parts/20% on New Equipment

Docusign Envelope ID: 5BCC1CFB-816B-45D1-AE13-C335C7AAD48E

EXHIBIT G

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

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

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

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

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

BRANDON & CLARK, INC.

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

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

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

_____
Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

5 Signed by: Josh Clark 28F15EEF370246A

Signature of vendor doing business with the governmental entity

10/21/2025
Date

Docusign Envelope ID: 5BCC1CFB-816B-45D1-AE13-C335C7AAD48E

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 5BCC1CFB-816B-45D1-AE13-C335C7AAD48E
Status: Sent
Subject: Please DocuSign: City Council Contract 8818 Pumps, Blowers, Motor Repairs & Services-Brandon & Clark
Source Envelope:
Document Pages: 35
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
9/23/2025 10:40:59 AM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 9/23/2025 10:42:49 AM Viewed: 9/23/2025 10:42:57 AM Signed: 9/23/2025 10:44:09 AM
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/23/2025 10:44:12 AM Viewed: 9/23/2025 11:00:26 AM Signed: 9/23/2025 11:00:35 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/23/2025 11:00:38 AM Viewed: 9/24/2025 2:31:22 PM Signed: 9/24/2025 2:32:50 PM
Josh Clark joshclark@brandonclark.com Sr Vice President Brandon and Clark, Inc. Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/24/2025 4:46:04 PM ID: 7a553c36-5029-4ee0-a1ef-cbb94554e880	Signed by: Josh Clark 28F1EEEF370246A... Signature Adoption: Drawn on Device Using IP Address: 12.138.207.66	Sent: 9/24/2025 2:32:54 PM Resent: 10/8/2025 10:17:20 AM Resent: 10/16/2025 9:06:04 AM Viewed: 10/21/2025 2:06:08 PM Signed: 10/21/2025 2:08:42 PM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. antonio.puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/21/2025 3:59:33 PM ID: 3a5324a0-34a0-4e43-b76b-c5695f8cb56d	Signed by: E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/21/2025 2:08:45 PM Viewed: 10/21/2025 3:59:33 PM Signed: 10/21/2025 3:59:49 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/21/2025 3:59:52 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 9/23/2025 10:44:11 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/21/2025 3:59:52 PM Viewed: 10/21/2025 4:07:43 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Stephen Gay stephen.gay@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/21/2025 11:30:50 AM ID: acebc4e3-8290-4048-af73-5b4378bbe688		
Trever Heskett trever.heskett@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/9/2025 3:42:14 PM ID: 55c7224a-5f5a-40ea-bac0-2057cb4fac48		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Arthur R. Pando Arthur.Pando@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 1/3/2025 10:13:48 AM ID: 7c4c9c14-5956-433a-9661-632fab614919		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/23/2025 10:42:50 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

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

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

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

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

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

Required hardware and software

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

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

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

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

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

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

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Smith Pump Company, Inc., for pump parts, repair, services and rebuild of pumps for the Water Production facilities; providing for the expenditure of funds therefor; and providing an effective date (RFP 8818 – awarded to Smith Pump Company, Inc., for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $600,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Water Production Department uses various pumps to convey water within the water and treatment systems. Pumps are used at the Lake Lewisville Raw Water Intake to pump untreated lake water to the Lake Lewisville Water Treatment Plant. There are three (3) remote pump stations within the distribution system that pump water to the various pressure planes throughout the system. Within the water production facilities, pumps are also used to transfer water within the plants and to pump water into the water distribution system. These services are essential to the treatment processes that ensure the delivery of safe, potable water for the City of Denton and surrounding communities. The agreement will support uninterrupted operations at the water production facilities.

Request for Proposals was sent to 298 prospective suppliers of this item, including five (5) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. Four (4) proposals were received and evaluated based upon published criteria, including delivery, compliance with specifications, probable performance, and price. Based upon this evaluation, Smith Pump Company was ranked the highest for Section 2 – Pumps and determined to be the best value for the City.

NIGP Code Used for Solicitation:	640 - Power Generation Equipment, Accessories, and Supplies
Notifications sent for Solicitation sent in IonWave:	298
Number of Suppliers that viewed Solicitation in IonWave:	17
HUB-Historically Underutilized Business Invitations sent out:	19
SBE-Small Business Enterprise Invitations sent out:	107
Responses from Solicitation:	4

RECOMMENDATION

Award a contract with Smith Pump Company, Inc., for pump parts, repair, services, and rebuild of pumps for the Water Production facilities, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of $600,000.

PRINCIPAL PLACE OF BUSINESS

Smith Pump Company, Inc.
Fort Worth, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products and services will be funded from Water Operating Funds. Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $600,000. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

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

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

For information concerning this acquisition, contact: Trever Heskett, 940-349-7627.

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

Exhibit 2
RFP 8818 - Pricing Evaluation for Pumps, Blowers, Motor Repairs, and Services

				Respondent's Business Name:	**Smith Pump Company**	Brandon & Clark Inc.	G&M Mechanical Engineering LLC
				Principal Place of Business (City and State):	**Fort Worth, TX**	Lubbock, TX	Port St. Lucie, FL
Line #	**Description**	**Qty**	**UOM**		**Unit**	**Unit**	**Unit**
Section II -Pumps							
18	Vibration Testing	1	EA		**$1,260.00**	$923.00	$1,500.00
19	Alignment	1	EA		**$1,260.00**	$1,846.00	$1,500.00
20	Hourly Rate: Normal Working Hours	1	HR		**$110.00**	$125.00	$150.00
21	Hourly Rate: After Hours, Weekends, Overtime	1	HR		**$165.00**	$187.50	$225.00
22	Hourly Rate: Crane Rental	1	HR		**$205.00**	$432.00	no bid
23	Hourly Rate: Emergency Repairs	1	HR		**$165.00**	$187.50	$310.00
24	Pump Inspections-provide an hourly rate	1	HR		**$110.00**	$375.00	no bid
25	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc.**MARKUP RATE				**15.0%**	15% on Parts / 20% on New Equipment	no bid

Evaluation
Round 1

Item #	**Scoring Criteria**	**Smith Pump Company**	Brandon & Clark Inc.	G&M Mechanical Engineering LLC
1	Delivery/Project Schedule - 30%	**24.00**	20.00	14.00
2	Compliance with Specifications - 30%	**22.00**	22.00	10.00
3	Probable Performance - 20%	**18.67**	14.67	9.33
4	Price, Total Cost of Ownership - 20%	**20.00**	16.07	14.58
	Total Score:	**84.67**	72.74	47.91

Round 2 - after interviews

Item #	**Scoring Criteria**	**Smith Pump Company**	Brandon & Clark Inc.	
1	Delivery/Project Schedule - 30%	**21.00**	21.00	
2	Compliance with Specifications - 30%	**22.50**	19.50	
3	Probable Performance - 20%	**16.00**	15.00	
4	Price, Total Cost of Ownership - 20%	**20.00**	16.07	
	Total Score:	**79.50**	71.57	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SMITH PUMP COMPANY, INC., FOR PUMP PARTS, REPAIR, SERVICES AND REBUILD OF PUMPS FOR THE WATER PRODUCTION FACILITIES; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8818 – AWARDED TO SMITH PUMP COMPANY, INC., FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $600,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for motor and blower parts, repair, services, and rebuild of motors and blowers at the Denton Energy Center, Water Production and Reclamation facilities; and

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

RFP NUMBER	CONTRACTOR	AMOUNT
8818	Smith Pump Company, Inc.	$600,000.00

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

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

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Docusign City Council Transmittal Coversheet

RFP	8818
File Name	PUMP, BLOWER, MOTOR REPAIRS & SERVICES-SMITH PUMP
Purchasing Contact	Crystal Westbrook
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND SMITH PUMP COMPANY, INC.
(Contract #8818)

THIS CONTRACT is made and entered into this date _____, by and between SMITH PUMP COMPANY, INC. a Texas corporation, whose address 4624 Martin Luther King Jr Fwy., Fort Worth, Texas 76119, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's RFP #8818 Pump, Blower, Motor Repairs and Services, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's RFP #8818 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Contractor's Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains

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

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

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

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

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

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

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

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

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

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CONTRACTOR

BY: Docusigned by: Trent Brown 9EE0F77FDE73404...
AUTHORIZED SIGNATURE

Printed Name: Trent Brown

Title: President

254-776-0377
PHONE NUMBER

trentb@smithpump.com
EMAIL ADDRESS

2025-1369392
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
_____ CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

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

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

Signed by: Stephen D. Gay FEB48BB9726E4A9...
SIGNATURE

Stephen D. Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The total contract for Section II only of RFP 8818, which Section II only is awarded by this Contract for the supply of Pumps, shall not exceed $600,000.00. Pricing shall be per Exhibit F attached.

2. The Quantities

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

3. Contract Terms

The contract term will be one (1) year, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional four (4) one-year periods.

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

4. Price Escalation and De-escalation

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

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

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Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

5. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

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Exhibit C
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

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

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

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

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.
A. The Contractor shall employ only orderly and competent workers, skilled in the performance

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

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

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

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

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

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

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

12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the

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Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:
A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.
B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, including, but not limited to, those in Paragraph D , below, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches such shipment or delivery.
D. The City may withhold or set off the entire payment or part of any payment otherwise due to the Contractor to such extent as may be necessary on account of:

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

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.
F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges,

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surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:
A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.
B. The making and acceptance of final payment will constitute:

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

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

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

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

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this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

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

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

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as

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a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. **WARRANTY – TITLE**: **THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.**

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event

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the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.
A. Recycled deliverables shall be clearly identified as such.
B. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable federal, State, and local laws, rules or regulations.
A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.
B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
C. If the Contractor is unable or unwilling to perform its services in accordance with the above

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standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. **DEFAULT**:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without

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limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to

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

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

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

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

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO**

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ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

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C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

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

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

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

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

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: The Contractor agrees to comply with the conflict of interest provisions of the City of Denton Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the

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City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

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

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

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

50. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as,

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or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

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

53. **DISPUTE RESOLUTION**:

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

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

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Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
C. The parties shall not be required to submit to binding arbitration.

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

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

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

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

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

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

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

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined
in the ADA.

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-
(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
iv. "End product" means those articles, materials, and supplies to be acquired under the contract

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for public use.
v. “Foreign end product” means an end product other than a domestic end product.
vi. “United States” means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled “Buy American Act Certificate”.

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

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

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

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

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

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

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

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

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

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

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

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

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($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

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

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

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Exhibit D
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

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

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

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EXHIBIT E

INSURANCE REQUIREMENTS

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

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

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

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

- Liability policies shall be endorsed to provide the following:

    - Name as Additional Insured the City of Denton, its Officials, Agents,

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Employees and volunteers.

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

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

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

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

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

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

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

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

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B. Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: $100,000.00 Each Accident
Bodily Injury by Disease: $100,000.00 Each Employee
Bodily Injury by Disease: $500,000.00 Policy Limit

NOTES:

a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of $500,000.00 per occurrence.

NOTE:

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

D. Professional Liability Insurance

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

Docusign Envelope ID: F989C1E6-2626-4BDE-B089-933BBC335A10

SUBCONTRACTING LIABILITY

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

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

Docusign Envelope ID: F989C1E6-2626-4BDE-B089-933BBC335A10

EXHIBIT F

Line #	Description	QTY	UOM	Smith Pump Company Unit
	Section II -Pumps			
18	Vibration Testing	1	EA	$1,260.00
19	Alignment	1	EA	$1,260.00
20	Hourly Rate: Normal **SHOP** Working Hours	1	HR	$110.00
21	Hourly Rate: After Hours, Weekends, Overtime	1	HR	$165.00
22	Hourly Rate: Crane Rental ***MARKUP RATE	1		15.0%
23	Hourly Rate: Emergency Repairs	1	HR	$165.00
24	Pump Inspections-provide an hourly rate	1	HR	$110.00
25	Any and all parts associated with motors owned by the City to include refurbishing and replacement of new equipment, but not limited to seals, fasteners, gears, shafts, gaskets, impellers, etc. ***MARKUP RATE			15.0%
ALT	Hourly Rate: Normal **Field** Service Working Hours	1	HR	$135.00
ALT	Hourly Rate: Large Horizontal Boring Mill Machining	1	HR	$225.00
ALT	Any and all 3rd party services including crane rental and transportation ***MARKUP RATE			15.0%
ALT	Engineering Services	1	HR	$160.00

Docusign Envelope ID: F989C1E6-2626-4BDE-B089-933BBC335A10

EXHIBIT G

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

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

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

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

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

SMITH PUMP COMPANY, INC.

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

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

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

NONE

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

N/A

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

5 DocuSigned by: Trent Brown 9EE0577FDE73404...

Signature of vendor doing business with the governmental entity

10/2/2025

Date

Docusign Envelope ID: F989C1E6-2626-4BDE-B089-933BBC335A10

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

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

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

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

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

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

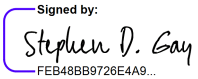
Envelope Id: F989C1E6-2626-4BDE-B089-933BBC335A10
Status: Sent
Subject: Please DocuSign: City Council Contract 8818-Pump, Blower, Motor Repairs & Services-Smith Pump
Source Envelope:
Document Pages: 35
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
9/23/2025 9:55:00 AM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 9/23/2025 10:00:15 AM Viewed: 9/23/2025 10:00:25 AM Signed: 9/23/2025 10:01:23 AM
Christa Christian christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/23/2025 10:01:25 AM Viewed: 9/23/2025 10:31:22 AM Signed: 9/23/2025 10:36:02 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/23/2025 10:36:05 AM Viewed: 9/24/2025 2:34:24 PM Signed: 9/24/2025 2:35:22 PM
Trent Brown trentb@smithpump.com President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/24/2025 5:04:23 PM ID: 760ee51d-6383-46fb-8f10-14c91073247a	DocuSigned by: 9EE0F77FDE73404... Signature Adoption: Pre-selected Style Using IP Address: 67.79.250.90	Sent: 9/24/2025 2:35:25 PM Viewed: 9/24/2025 5:04:23 PM Signed: 10/2/2025 2:39:18 PM

Signer Events	Signature	Timestamp
Stephen D. Gay stephen.gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/2/2025 2:41:31 PM ID: 94fa7e09-e525-4de8-9a0b-93113c144e6e	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/2/2025 2:39:21 PM Viewed: 10/2/2025 2:41:31 PM Signed: 10/2/2025 2:42:44 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/2/2025 2:42:48 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 9/23/2025 10:01:26 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/2/2025 2:42:48 PM Viewed: 10/2/2025 4:26:53 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Trever Heskett trever.heskett@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 7/7/2025 10:58:03 AM ID: 228b3702-35a7-4407-bca8-1e3214673f4b		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/23/2025 10:00:15 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

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

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

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

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

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

Required hardware and software

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

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

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

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

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

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

City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Xylem Water Solutions U.S.A., Inc., for the Ray Roberts Water Treatment Plant – Ozone Generator Programmable Logic Controller Upgrades for Water Production, which is the sole provider of this equipment, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8841 – awarded to Xylem Water Solutions U.S.A., Inc., in the not-to-exceed amount of $900,000.00).

STRATEGIC ALIGNMENT

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

INFORMATION/BACKGROUND

The Ray Roberts Water Treatment Plant (WTP) utilizes ozone gas as a primary disinfectant during the water treatment process. The ozone is produced by generators that are original to the facility, which was constructed 23 years ago. These generators are controlled by a Master Ozone Control Panel (MOCP), which functions as a Programmable Logic Controller (PLC) by communicating with the generators and regulating their operation based on setpoints provided by plant operators.

The communication hardware and interface cards that support this system are now obsolete, and replacement parts are no longer available. In the event of a component or communication failure, the ozone generation process would fail, resulting in the plant's inability to treat water until repairs are completed. Given the critical role of ozone in the disinfection process, the aging PLC system represents a significant operational risk.

This project will upgrade the obsolete PLC hardware and communication systems with modern components that are supported by current technology and for which replacement parts and technical support are readily available. This investment will ensure continued reliability and regulatory compliance until a future plant expansion is completed.

Due to the proprietary nature of the existing ozone system, Xylem Water Solutions U.S.A., Inc. is the sole provider capable of performing the necessary upgrades. The system’s hardware, software, and programming are specific to the Xylem platform, and no other vendor can support or integrate with the existing equipment.

Project Description	Estimated 1-Year Expenditure
30% upon receipt of the Purchase Order	$243,260.10
60% from the shipment of the product	486,520.20
10% upon site work completion	81,086.20
Contingency for additional support hours	89,133.50
Total	**$900,000.00**

Section 252.022 of the Local Government Code provides that procurement of sole source commodities and services are exempt from competitive bidding, if over $50,000, shall be awarded by the governing body.

RECOMMENDATION

Award with a contract to Xylem Water Solutions U.S.A., Inc. as a sole source supplier, for the Ray Roberts Water Treatment Plant – Ozone Generator Programmable Logic Controller Upgrades for Water Production, in an amount not-to-exceed $900,000.

PRINCIPAL PLACE OF BUSINESS

Xylem Water Solutions U.S.A., Inc.
Charlotte, NC

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval, with an estimated completion date of March 2026.

FISCAL INFORMATION

These services will be funded from the 5-year Capital Improvement Program bond, account 630556523.1360.40100. Requisition # 171792 has been entered into the Purchasing software system in the amount of $459,000. The total amount of this contract is $900,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: John Dillard, 940-349-7628.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH XYLEM WATER SOLUTIONS U.S.A., INC., FOR THE RAY ROBERTS WATER TREATMENT PLANT – OZONE GENERATOR PROGRAMMABLE LOGIC CONTROLLER UPGRADES FOR WATER PRODUCTION, WHICH IS THE SOLE PROVIDER OF THIS EQUIPMENT, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8841 – AWARDED TO XYLEM WATER SOLUTIONS U.S.A., INC., IN THE NOT-TO-EXCEED AMOUNT OF $900,000.00).

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

FILE NUMBER	VENDOR	AMOUNT
8841	Xylem Water Solutions U.S.A., Inc.	$900,000.00

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

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

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

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

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

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

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

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

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

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

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

Docusign City Council Transmittal Coversheet

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

DS
LH

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

THIS CONTRACT is made and entered into this date _____, by and between Xylem Water Solutions U.S.A., Inc. a Delaware corporation, whose address 4828 Parkway Plaza Blvd, Suite 200 Charlotte, NC 28217, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's Contract # 8841 Ray Roberts Ozone Gen PLC Upgrades, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

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

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

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

Prohibition on Contracts with Companies Boycotting Certain Energy Companies
Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is

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

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

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

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

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

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

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

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

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

CONTRACTOR

Signed by:

BY: _____
566F4CA1F0CA4C2...
AUTHORIZED SIGNATURE

Printed Name: Adam McNeill

Title: VP Treatment North America

262 409 6712
PHONE NUMBER

Adam.McNeill@xylem.com
EMAIL ADDRESS

_____
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS
SARA HENSLEY CITY MANAGER

BY: _____

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:

BY: Marcella Lunn
4B070831B4AA438...

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

Signed by:

Stephen D Gay
CEB48AB9716E4A2...
SIGNATURE

Stephen D Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

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

2. Contract Terms

The contract will be effective from date of award or notice to proceed with a purchase order as determined by the City of Denton Purchasing Department.

3. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

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

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

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

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Exhibit B
City of Denton
Standard Purchase Terms and Conditions

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

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

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

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

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

4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables, notwithstanding the foregoing, Seller retains all contractual rights and remedies available under this Agreement until payment is received in full, including the right to pursue collection and enforce any applicable terms related to non-payment.

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5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables as evidenced by signed delivery ticket..

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

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

8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall have the right to substitute a conforming tender. Following notice from City;, the Contractor will notify the City of the intention to cure and may then make a conforming tender Contractor shall, at its own expense, promptly take all commercially reasonable steps to cure such non-conformity as quickly as practicable. If, instead of requiring immediate correction or removal and replacement of non-conforming deliverables, the City prefers to accept it, the City may do so and at the City's own risk. In the absence of acceptance and provided Contractor fails within 5 days of receipt of written notice to initiate and demonstrate diligent efforts to fully remedy to City's reasonable satisfaction, then City may, subject to Contractor's receipt of written notice of such default terminate the agreement. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

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

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expected conditions.

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

10. **WORKFORCE** This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.
A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs, or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs.
C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

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

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

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

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12. **INVOICES**:
A. The Contractor shall submit separate invoices on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:
A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid in accordance with payment terms in Exhibit E
B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, including, but not limited to, those in Paragraph D , below, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches such shipment or delivery.
D. The City may withhold or set off the entire payment or part of any payment otherwise due to the Contractor under this agreement to such extent as may be necessary on account of:

i. delivery of defective or non-conforming deliverables by the Contractor;
ii. third party claims resulting from acts or omissions of Contractor , which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;
iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor provided such damage is caused by Contractor;
v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in Section 4 of Exhibit E of the Contract, and that the unpaid balance would not be adequate to cover liquidated damages prescribed in section 3 of Exhibit A for the anticipated delay;
vi. failure of the Contractor to submit proper invoices with purchase order number, all

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required attachments, and supporting documentation; or

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

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

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

G. INTENTIONALLY OMITTED.

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

15. **FINAL PAYMENT AND CLOSE-OUT**:

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

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

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

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

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

17. **RIGHT TO AUDIT**:

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

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verify invoiced amounts for time and materials or cost plus work. If necessary, for said work, the City shall have the right to escorted access at Contractor's office audit and make copies of the books, records, and computations pertaining to the Contract. The foregoing right to make copies is subject to the express written permission of Contractor at the time of the audit. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice. The parties agree that all such records may contain proprietary and confidential information. The City shall use the same degree of care to protect such Confidential Information as it uses to protect its own confidential and proprietary information of a similar nature, but in no event less than a commercially reasonable standard of care. Contractor acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. All material submitted by Contractor to the City of Denton shall become property of the City upon receipt. Any portions of such material claimed by Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, chapter 552, and *Texas Government Code*.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

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

18. **SUBCONTRACTORS**:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan.

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The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

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

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

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

v. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

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

19. **WARRANTY-PRICE**:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. **WARRANTY – TITLE**: **THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE**

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DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. **WARRANTY – DELIVERABLES**: Per Exhibit E

22. **WARRANTY – SERVICES**: Per Exhibit E

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: If, instead of requiring immediate correction or removal and replacement of non-conforming deliverables, the City prefers to accept it, the City may do so at City's own risk. Upon failure of Contractor within 5 days of receipt of written notice to initiate and demonstrate diligent efforts to remedy any non-conforming work to the Contractor's reasonable satisfaction, it may terminate the order for cause pursuant to Article 27 . If any such acceptance occurs prior to final payment, the City may deduct such mutually agreed, equitable amounts as are necessary to compensate the City for the diminished value of the non-conforming deliverables. If the acceptance occurs after final payment, such mutually agreed amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is received, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. **STOP WORK NOTICE**: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall remain liable for liquidated damages pursuant to section 3 of Exhibit A. when delayed as a result of the issuance of such Stop Work Notice due to Contractor's acts or omissions as described in this section 25.

26. **DEFAULT**:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

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

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

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to initiate and demonstrate diligent efforts to remedy the default, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days after the date of such notice, unless the Contractor, within such ten (10) day period, initiates and demonstrates diligent efforts to cure such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. the City shall be entitled to recover all reasonable, actual and verifiable costs, incurred by the City as a result of the Contractor's default. Upon said termination, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. In the event this Agreement does not contain a specific remedy for a given breach, all rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. To the extent that this Order provides either party with a specified remedy for a given breach or default that remedy is the sole and exclusive remedy available to the exclusion of any / all other remedies that may be available at law, in equity or otherwise. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. Notwithstanding anything stated herein or elsewhere to the contrary, as payment of liquidated Damages by Contractor are the remedy for delay, the City shall not terminate until the liquidated Damages cap has been met.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor reasonable termination costs based upon the portion of work completed and services rendered up until the time termination notice is received, including payment, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, Contractor will not be entitled to any claim for anticipated profits on work not completed provided such payment amount is not disputed by City in good faith based on specific documented reasons related to non-performance, non-conformity or breach of contract. Any undisputed amounts shall be paid within the timeframes set forth in this Agreement.

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

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified. Pricing is based upon commencement of work in accordance with the schedule stated in Exhibit E of this agreement or as mutually agreed in writing by the parties.

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

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the section 3 of Exhibit A of the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the reasonable approximation of value of the costs and in lieu of actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and are not binding upon Contractor unless mutually agreed in writing.

32. **INDEMNITY**:

A. Definitions:

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

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE**

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RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

33. **LIMITATION OF LIABILITY**: This Contract does not, and shall not be interpreted to, contain an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

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

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

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

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the Contract

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will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN AND AT ITS SOLE EXPENSE SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF.** If the use of any Product of any part thereof should be enjoined, Contractor shall have the right at its own expense to procure for the City the right to continue using such Product, or to replace said Product with a non-infringing item or to modify said Product so that it becomes non-infringing.

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

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

40. **OWNERSHIP AND USE OF DELIVERABLES**: INTENTIONALLY OMITTED

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

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

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

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

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

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

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

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

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City except that the foregoing shall not apply to Subcontractors hired by Contractor to perform portions of onsite work as such is expected and agreed. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

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

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

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

53. **DISPUTE RESOLUTION**:

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

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

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

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

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

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

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

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

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

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

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

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

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

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)INTENTIONALL OMITTED**

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

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

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

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

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

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

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

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

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

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

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

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

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

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for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. For work provided on a time and materials or cost plus basis, The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

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

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

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Exhibit C
Certificate of Interested Parties Electronic Filing

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

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

The Contractor shall:

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

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

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Exhibit D

INSURANCE REQUIREMENTS

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

STANDARD PROVISIONS:

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

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- .
- General Liability policies shall be endorsed to provide the following:
    - Name as Additional Insured the City of Denton, its Officials, Agents, Employees and volunteers.
    - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy but only

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

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with combined bodily injury (including death) and property damage limits of $1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

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B. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE

Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The policy limits for **Employers Liability** are:

Bodily Injury by Accident: $500,000.00 Each Accident
Bodily Injury by Disease: $500,000.00 Each Employee
Bodily Injury by Disease: $500,000.00 Policy Limit

NOTES:

a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.

b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of $500,000.00 per occurrence.

NOTE:

a. If CONTRACTOR does not have owned, hired and non-owned autos or vehicles and/or no autos or vehicles will not be used in the performance of services under the contract, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement for owned autos.

D. PROFESSIONAL LIABILITY INSURANCE

If CONTRACTOR is a licensed or certified person who renders professional services, then **Professional Liability Insurance** to provide coverage against any claim which the CONTRACTOR becomes legally obligated to pay as damages arising out of the performance of professional services caused by any negligent error, omission or act with minimum limits of $1,000,000.00 per claim, $2,000,000.00 annual aggregate.

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SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall include CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

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EXHIBIT E

WEDECO
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Denton – Lake Ray Roberts WTP
Ozone System Controls Upgrade Proposal

Prepared for:

Mr. John Dillard

September 11, 2025

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WEDECO
a xylem brand

Xylem Water Solutions USA, Inc.
4828 Parkway Plaza Blvd, Suite 200
Charlotte, NC 28217

September 11, 2025

City of Denton (“Purchaser” or “City”)
Lake Ray Roberts WTP
19401 Lake Ray Roberts Dam Road,
Aubrey, TX 76227

Project Name: Lake Ray Roberts WTP Ozone System Controls Upgrade
Account Number: 067511
Quote Number: J23081221685
Wedeco Original Equipment Project Number: 20645
Revision Number: 4

Dear Mr. Dillard,

We are pleased to submit the following proposal for the Lake Ray Roberts WTP Ozone System Controls Upgrade based on the information provided in your inquiry.

As Xylem (“Xylem” or “Supplier”) is the OEM for the Ozone Disinfection System at your site, the City can be assured that all work performed will be of the highest quality, utilizing OEM parts coupled with OEM service procedures. In the following pages you will find a proposed scope of work for the Ozone System controls upgrade process.

We trust this information meets your expectations. Please do not hesitate to contact us if you have any questions.

We value your business and look forward to working with you.

Sincerely,

Mike Leverett
Aftermarket Territory Manager - Treatment
817-905-2879
mike.leverett@xylem.com

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1 Benefits of the Controls Upgrade

The controls upgrade will replace and upgrade significant control components with newer, more modern technology with Xylem staff expertise. This solution will address system concerns that are necessary for reliable operation, maintenance and efficiency. The controls improvement will be fairly direct in existing cabinets. The upgrade will ultimately provide longer system life and bring the system up to Xylem operating standards. This ozone system controls upgrade will afford the plant additional value beyond relief from existing system conditions.

2 Price & Scope of Supply

2.1 XYLEM SCOPE OF SUPPLY

2.1.1 Main Ozone Control Panel (MOCP) Upgrade (1): The main ozone control panel will be upgraded with new Schneider Electric M580 redundant PLC hardware. Xylem provided labor will remove the legacy PLC racks, processors, power supplies and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric M580 hardware in this panel. All restoration work will be performed by factory trained Xylem personnel. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.

2.1.2 Pre-Ozone Contactor Control Panel Upgrade (RIOA) (1): The pre-ozone contactor control panel will be upgraded with new Schneider Electric PLC hardware. Xylem provided labor will remove the legacy PLC rack, communication module, power supply and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric hardware in this panel. All restoration work will be performed by factory trained Xylem personnel. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.

2.1.3 Intermediate Contactor Control Panel Upgrade (RIOB) (1): The intermediate contactor control panel will be upgraded with new Schneider Electric PLC hardware. Xylem provided labor will remove the legacy PLC rack, communication module, power supply and I/O modules located in this panel. Xylem will provide labor to install the new Schneider Electric hardware in this panel. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction. Note: All existing I/O will be reused, some spares will be removed due to space constraints.

2.1.4 Ozone Generator Control Panel Upgrade (Gen-1 & Gen-2) (2) The ozone generator control panels (2) will each be upgraded with new Schneider Electric M340 PLC hardware. Xylem provided labor will remove the legacy PLC racks, processors, power supplies and I/O modules located in each of these panels. Xylem will provide labor to install the new Schneider Electric M340 hardware in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.

2.1.5 Ozone Generator Power Monitor Upgrade (Gen-1 & Gen-2) (2): The ozone generator panels (2) will each be upgraded with one (1) new power monitor. Xylem will provide labor

to install the new power monitors in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction.

2.1.6 HMI Hardware Upgrade (3): The main ozone control panel (1), and ozone generator control panel (2) will each be upgraded with one (1) new Schneider Electric Harmony GTO HMI. Xylem labor shall remove the legacy HMIs and install one (1) new Schneider Electric Harmony GTO HMI in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit the uninstalled HMIs to Owner at Owner's direction.

2.1.7 Ancillary Hardware Upgrade (1): The main ozone control panel (1), pre-ozone contactor control panel (1), intermediate contactor control panel (1) and ozone generator panels (2) will each be upgraded with one (1) new managed Ethernet switch, (1) new UPS with internal batteries, (provisions for external batteries are not provided), four (4) new 24VDC power supplies, two (2) new 24VDC power supply redundancy modules and new Ethernet patch cords. Xylem will provide labor to install, configure and set up the new ancillary hardware in each of these panels. All restoration work will be performed by Xylem provided labor on site. Xylem Service Technician will transmit all uninstalled items to Owner at Owner's direction. Note: Ethernet switch configuration settings shall be provided to Xylem.

2.1.8 PLC Programming of New PLC Processor (4): Factory trained Wedeco Controls Engineer shall be responsible for programming four (4) new PLC processors, two (2) in the main ozone control panel providing redundancy and one (1) in each of the ozone generator panels.

2.1.9 HMI Programming of New HMI Hardware (3): Factory trained Wedeco Controls Engineer shall be responsible for programming three (3) new HMI's, one (1) each in the main ozone control panel and ozone generator panels.

2.1.10 Documentation (1): The main ozone control panel (1), pre-ozone contactor control panel (1), intermediate contactor control panel (1) and ozone generator control panels (2) as-built drawings and supplement bill of material (BOM) will be provided for insertion into Owner's existing O&M manuals.

2.1.11 Field Services: Xylem will provide the services of one (1) factory trained Controls Engineer for up to thirty-nine days (39), thirteen (13) trips, one (1) factory trained Ozone Technician for up to thirty-nine days (39), thirteen (13) trips and one electrician for up to fifteen (15) days, five (5) trips for initial site discovery visit, legacy hardware de-termination and removal, new hardware installation, wire re-termination, point to point testing, loop checks, start-up, commissioning, and operator training of one (1) PDO-6000 Ozone System.

2.2 PRICE SUMMARY

DESCRIPTION	PRICE
Ozone System Model PDO-6000 controls upgrade as defined in scope of supply	
TOTAL:	**$810,867**

NOTES:

1. This firm pricing is based solely on scope outlined in section 2 of this proposal, and supersedes plans, specifications and addenda.
2. The prices quoted herein are based on the equipment being released for shipment by the 4th Quarter, 2025.
3. SCADA programming is not included.
4. Ethernet switch configuration settings shall be provided to Xylem.
5. Obtaining fresh backup copies of existing PLC and HMI programs while on site during the site discovery visit. Reference section 4, proposed schedule, week one.
6. The prices quoted herein are based on the proposed schedule in section 4 of this proposal and field work execution of weeks 3 through 14 being continuous sequential weeks.
7. Should an unsafe site condition or lack of site readiness delay the performance of work, Xylem holds the right to recover additional expenses incurred.
   - Ensure life safety systems including all ambient ozone monitors are in proper working condition.
   - The ozone system is free of ozone leaks.

EXCLUSIONS:

1. Equipment, spare parts, services and software not specifically listed in Section 2 of this proposal.
2. Conduits and field wireways not listed in Section 2 of this proposal.
3. Interconnecting Ethernet/fiber optic cable, cable installation and terminations between panels and Plant SCADA

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3 Commercial Terms & Conditions

Incoterm: DAP - Delivered At Place **Named Placed:** Jobsite
Incoterms 2020 clarify responsibility for costs, risks, & tasks associated with the shipment of goods to the named place.

Validity: This Quote is valid for sixty (60) days.
The prices quoted herein are based on the current tariff rates, duties, government charges, and trade regulations as of the date of this quote. If any new tariffs, duties, taxes, or similar charges are imposed, or any existing tariffs, duties, or charges are increased or modified by any government or regulatory authority (collectively, "Tariff Changes"), and such Tariff Changes result in an increase in the cost of goods, Xylem reserves the right to adjust the pricing of the affected goods to reflect the increased costs. Xylem is not obligated to deliver the goods and/or services until an agreement on the new price has been reached.

Payment terms for Denton – Lake Ray Roberts WTP Ozone System Controls Upgrade project are as follows and shall govern over all other payment provisions stated in the agreement:
Price is based upon the following payment terms (net 30 days), subject to credit approval:
a. 30% net 30 days upon receipt of purchase order
b. 60% net 30 days from shipment of the product
c. 10% net 30 days from ozone system controls upgrade site work completion

Please make purchase orders out to:

Xylem Water Solutions USA, Inc.
4828 Parkway Plaza Blvd., Suite 200
Charlotte NC 28217
704-409-9700
Fax 704-409-9839

Xylem’s payment shall not be dependent upon Purchaser being paid by any third party unless Owner denies payment due to reasons solely attributable to items related to the equipment being provided by Xylem Inc.

General Equipment & Service / Workmanship Warranty: Xylem Standard Warranty terms below apply to the items in this quotation, notwithstanding anything to the contrary stated elsewhere.

Xylem Warranty for Goods

Except as provided above, for goods sold by Supplier to Buyer(s) that are used by Buyer for personal, family or household purposes, Supplier warrants the goods to Buyer on the terms of Seller’s limited warranty available on Seller’s website. For any other purpose, Supplier warrants that the goods sold to Buyer under the Agreement (with the exception of software, membranes, seals, gaskets, elastomer materials, coatings and other "wear parts” or consumables all of which are not warranted except as otherwise provided in the Proposal) will be (i) built in accordance with the specifications referred to in the Proposal, if such specifications are expressly made a part of the Agreement, and (ii) free from defects in material and workmanship for a period of one (1) year from the date of installation or eighteen (18) months from the date of shipment (which date of shipment will not be greater than thirty (30) days after receipt of notice that the goods are ready to ship), whichever occurs first, unless a longer period is specified in the product documentation (the “Warranty”). For

services, the warranty period will be three (3) months from the date the services are performed unless otherwise expressly set forth in the Proposal or sales form or order acknowledgment.

Supplier will, at its option, either repair or replace any goods which fails to conform with the Warranty; provided, however, that under either option, Supplier will not be obligated to remove the defective goods or install the replaced or repaired goods and Buyer will be responsible for all other costs, including service costs, shipping fees and expenses.

Buyer's failure to comply with Seller's repair or replacement advice will constitute a waiver of Buyer's rights and render all warranties void. Any parts repaired or replaced by Supplier under the Warranty are warranted only for the remaining balance of the warranty period. The Warranty is conditioned on Buyer giving written notice to Supplier of any defects in material or workmanship of warranted goods within ten (10) days, or shorter period as dictated by the issue, of the date when any defects are first manifest. Supplier will have no warranty obligations to Buyer with respect to any goods or parts of the goods that: (a) have been repaired by third parties other than Supplier or without Seller's written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to Seller's instructions for installation, operation and maintenance; (d) have been damaged from ordinary wear and tear, corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; (g) have been damaged resulting from the use of accessory equipment not sold by Supplier or not approved by Supplier in connection with goods supplied by Supplier hereunder; or (h) not sold by Supplier or its authorized supplier. In any case of goods not manufactured by Seller, there is no warranty from Seller; however, Supplier will extend to Buyer any warranty received from Seller's supplier of such goods.

Xylem Warranty for Services

For a period of ninety (90) days from the date of ozone system controls upgrade site work completion unless otherwise expressly set forth in the quotation or sales form or order acknowledgment, Supplier represents and warrants to Purchaser that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement ("Supplier Service Warranty").

Supplier shall not be liable for a breach of the Warranty set forth in the foregoing paragraph unless Purchaser gives written notice of the defective Services, reasonably described, to Supplier within thirty (30) days of the time when Purchaser discovers or reasonably should have discovered that the Services were defective and then, following receipt of such notice, Supplier shall, in its sole discretion, either: (i) repair or re-perform such Services; or (ii) credit or refund the price of such Services at the pro rata contract rate.

THE FOREGOING XYLEM WARRANTY STATEMENTS FOR GOODS AND SERVICES ARE EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE GOODS PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.

Schedule: Submittals will be provided for information only. Delivery lead times for service are subject to technician availability after order acceptance.

Terms of Delivery: PP/Add Actual Surcharge.

Back charges: Purchaser shall not make purchases nor shall Purchaser incur any labor that would result in a back charge to Supplier without prior written consent of an authorized employee of Seller.

Shortages: Supplier will not be responsible for any apparent shipment shortages or damages incurred in shipment that are not reported within two weeks from delivery to the jobsite. Damages should be noted on the receiving slip and the truck driver advised of the damages. Please contact our office as soon as possible to report damages or shortages so that replacement items can be shipped and the appropriate claims made.

Taxes: The prices quoted above do not include any state, federal, or local sales tax or use taxes. Any such taxes as applicable must be added to the quoted prices.

Customer Acceptance: A signed facsimile copy of this quote is acceptable as a binding contract.

Signature: _____ Name: _____
(PLEASE PRINT)

Email: _____ Phone: _____

Date: _____ PO#: _____

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4 Proposed Schedule

		Xylem			Plant		
Week	Equipment / Activity	Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
1	Site discovery visit	N/A	System health check, get fresh backup copies of software programs	System health check, note deficiencies that need resolving prior to controls upgrade	N/A	N/A	N/A
2	Install new Network: MOCP, RIOA, RIOB, Gen 1, Gen 2	N/A	N/A	N/A	Install terminate & test Ethernet cabling between ozone control panels, MOCP, RIOA, RIOB, Gen 1, Gen 2	N/A	N/A
3	Ozone Generator No. 1 control panel	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Loop check local, prepare for Loop check with Plant Staff	Loop check local, prepare for Loop check with Plant Staff	N/A	N/A	N/A
4	Ozone Generator No. 1 control panel	N/A	Loop check with Plant Staff, document on loop check sheets	Loop check with Plant Staff, document on loop check sheets	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
5	Ozone Generator No. 2 control panel	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Legacy hardware removal, new hardware install, wire and loop check	Legacy hardware removal, new hardware install, wire and loop check	N/A	N/A	N/A
6	Ozone Generator No. 2 control panel	N/A	Legacy UPS and 24VDC power supply hardware removal, new hardware install, wire and function check	Legacy UPS and 24VDC power supply hardware removal, new hardware install, wire and function check	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A

		Xylem			Plant		
Week	Equipment / Activity	Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
7	Main Ozone Control Panel Panel-MOCP & MOCP RIO (LOX & NB)	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	Control system upgrade loop checks with plant SCADA	Control system upgrade loop checks with plant SCADA	N/A	N/A	N/A
8	Main Ozone Control Panel Panel-MOCP & MOCP RIO (LOX & NB)	N/A	N/A	N/A	N/A	Loop check with Programmer and O3 tech, document on loop check sheets.	N/A
9	Pre-Ozone Contactor Panel-RIOA	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	N/A	N/A	N/A	N/A	N/A
10	Pre-Ozone Contactor Panel-RIOA	N/A	N/A	N/A	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
11	Intermediate Ozone Contactor Panel-RIOB.	Legacy hardware determination, hardware removal and new hardware install and wire, loop check local (1 electrician)	N/A	N/A	N/A	N/A	N/A
12	Intermediate Ozone Contactor Panel-RIOB.	N/A	Loop check local, prepare for Loop check with Plant Staff	Loop check local, prepare for Loop check with Plant Staff	N/A	Loop check with Programmer and O3 tech, document on loop check sheets	N/A
13	Main Ozone Control Panel Panel-cutover from PLC-5	N/A	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	N/A	Final cutover from PLC'5s to M-580's, watch system run (reliability testing this week)	N/A

		Xylem			Plant		
Week	Equipment / Activity	Xylem Electrician	Xylem Controls Engineer	Xylem O3 Tech	Lake Ray Roberts WTP Electrician	Plant Staff	Construction Manager
14	Training – Gen 1, Gen 2, RIOA, RIOB and MOCP	N/A	Train operators on controls upgrade new PLC hardware & HMI look and feel – operation is unchanged	Train operators on controls upgrade new PLC hardware & HMI look and feel – operation is unchanged	N/A	Sign off on training	N/A
15 and beyond	Xylem time on site will be provided on a T&M basis						

SCHEDULE NOTES:

1. Site discovery visit (week 1) will be scheduled as soon as possible after purchase order acceptance based on Controls Engineer and Ozone Technician availability.
2. The gap between order acceptance and week 3 is scheduled to be 37 weeks. Submittals 12 weeks, Receive materials 18 weeks, Bench test materials 6 weeks, Shipment of materials 1 week.
3. Field work execution (weeks 3 through 14) shall be continuous sequential weeks.

Docusign Envelope ID: 9127C4CE-7D02-4582-9D32-2F93D2C882C4

Exhibit F

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

Xylem Water Solutions U.S.A., INC.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☒ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☒ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 Signed by:

_____ 10/20/2025
5C6F1CA1E0CA4C2...
Signature of vendor doing business with the governmental entity Date

Docusign Envelope ID: 9127C4CE-7D02-4582-9D32-2F93D2C882C4

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

(3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars ($50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars ($200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: 9127C4CE-7D02-4582-9D32-2F93D2C882C4
Status: Sent
Subject: Please DocuSign: City Council Contract 8841 Ray Roberts Ozone Gen PLC Upgrades
Source Envelope:
Document Pages: 43
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
10/13/2025 7:08:35 PM
Holder: Gabby Leeper
Gabby.Leeper@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Gabby Leeper Gabby.Leeper@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 198.49.140.104	Sent: 10/13/2025 7:12:31 PM Viewed: 10/13/2025 7:12:52 PM Signed: 10/13/2025 7:13:19 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	DS Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 10/13/2025 7:13:23 PM Viewed: 10/14/2025 8:58:25 AM Signed: 10/14/2025 9:02:23 AM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None)	DocuSigned by: 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/14/2025 9:02:25 AM Viewed: 10/14/2025 4:45:51 PM Signed: 10/14/2025 4:53:28 PM
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Adam McNeill Adam.McNeill@xylem.com Vice President Treatment Security Level: Email, Account Authentication (None)	Signed by: 5C6F1CA1E0CA4C2... Signature Adoption: Uploaded Signature Image Using IP Address: 165.1.176.151	Sent: 10/14/2025 4:53:32 PM Resent: 10/17/2025 2:02:08 PM Resent: 10/20/2025 9:46:51 AM Viewed: 10/20/2025 11:30:32 AM Signed: 10/20/2025 11:31:30 AM
Electronic Record and Signature Disclosure: Accepted: 10/15/2025 8:06:34 AM ID: 1fbc547f-3a33-4be0-bd11-174051c42bd8		

Signer Events	Signature	Timestamp
Stephen D Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/21/2025 11:30:50 AM ID: acebc4e3-8290-4048-af73-5b4378bbe688	Signed by: Stephen D Gay FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/20/2025 11:31:34 AM Viewed: 10/21/2025 11:30:50 AM Signed: 10/21/2025 11:31:26 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/21/2025 11:31:33 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/13/2025 7:13:22 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/21/2025 11:31:33 AM Viewed: 10/21/2025 1:49:05 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
John Dillard john.dillard@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/21/2025 10:51:23 AM ID: b3f8aca1-e462-4f66-8e3c-9d9a86ba513c		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/13/2025 7:12:31 PM
Envelope Updated	Security Checked	10/14/2025 8:20:59 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

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At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Professional Services Agreement between the City of Denton and Freese and Nichols, Inc., amending the contract approved by City Council on October 22, 2024, in the not-to-exceed amount of $21,000,000.00; said first amendment to extend the required pilot study for the Ray Roberts Water Treatment Plant Expansion Project for the Water Utilities Department; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7574-029 – providing for an additional first amendment expenditure amount not-to-exceed $184,000.00, with the total contract amount not-to-exceed $21,184,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Enhance Infrastructure and Mobility.

INFORMATION/BACKGROUND

The Ray Roberts Water Treatment Plant (RRWTP), established in 2002, currently processes 20 million gallons of water per day (MGD) using conventional treatment methods. However, Denton's growing residential, commercial, and industrial sectors continue to drive up the demand for treated water. To meet this increasing demand, the RRWTP is being expanded. In October 2024, the City Council approved a contract with Freese and Nichols to provide regulatory permitting, process evaluation, and design services for the project.

This expansion will introduce an advanced treatment facility utilizing a parallel ultra-filtration membrane process. The initial capacity of this new membrane process train will be 20 MGD, with space reserved in the membrane filter building for future modular expansion of up to an additional 30 MGD. Once the entire expansion project is complete, the combined treatment capacity of both the conventional and membrane facilities will be in the range of 45 to 50 MGD.

The RRWTP expansion will include:

- Treatment train that will utilize low-pressure membrane units
- New parallel raw water pipeline
- New pre-ozone contactor
- New pump diffusion vault and flow separator
- New flocculation/sedimentation basins

- New membrane feed pump station
- New intermediate ozone contactor
- New biologically active filters
- New transfer pump station
- Construction of an additional clearwell

Before the final design phase, Freese and Nichols is required to perform a pilot study for the low-pressure membrane filters to comply with the Texas Commission on Environmental Quality (TCEQ) requirements for innovative treatment technologies. Both inclined plate settlers and membrane treatment are proven and established water treatment technologies; however, the TCEQ requires a pilot study to demonstrate the efficacy of the advanced treatment on the actual raw water source. The pilot study was initially structured to last 124 days; however, after receiving feedback from the low-pressure membrane suppliers, the pilot study will be modified to include two runs – one with citric acid and one without it. This modification will allow the membrane system suppliers to determine if the use of citric acid can be reduced. This adjustment will add 53 additional days, bringing the total duration of the pilot study to 177 days. Additionally, Freese and Nichols will hire an independent testing laboratory to perform the water quality analysis required for the pilot study.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On March 6, 2018, and June 5, 2018, City Council approved RFQ 7574 for a prequalified list of professional engineering firms (Ordinance 2018-331).

On October 22, 2024, City Council approved a contract with Freese and Nichols, Inc., in the not-to-exceed amount of $21,000,000 (Ordinance 24-2084).

RECOMMENDATION

Award amendment No. 1 with Freese and Nichols, Inc., to extend the required pilot study for the Ray Roberts Water Treatment Plant Expansion Project for the Water Utilities Department, in a not-to-exceed amount of $184,000, for a total amended contract amount of $21,184,000.

PRINCIPAL PLACE OF BUSINESS

Freese and Nichols, Inc.
Denton, TX

ESTIMATED SCHEDULE OF PROJECT

The RRWTP Expansion project will be started upon approval of the design and CMAR contracts, with a projected construction completion date of Q4 2029.

FISCAL INFORMATION

These services will be funded from Water Utilities account 630576508.1360.21100. Purchase Order #209636 will be revised to include the first amendment amount of $184,000. The total amount of this contract is $21,184,000.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment 1

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Katherine Koch, 940-349-8419.

Legal point of contact: Marcella Lunn at 940-349-8333

ORDINANCE NO. 24-2084

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH FREESE AND NICHOLS, INC., FOR REGULATORY PERMITTING, PROCESS EVALUATION, AND DESIGN SERVICES FOR THE RAY ROBERTS WATER TREATMENT PLANT EXPANSION PROJECT FOR THE WATER UTILITIES DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-029 – PROFESSIONAL SERVICES AGREEMENT FOR REGULATORY PERMITTING, PROCESS EVALUATION, AND DESIGN SERVICES AWARDED TO FREESE AND NICHOLS, INC., IN THE NOT-TO-EXCEED AMOUNT OF $21,000,000.00).

WHEREAS, on March 23, 2021, the City Council approved a pre-qualified engineer list for Water and Wastewater (Ordinance 21-546), and the professional services provider (the "Provider") mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the fees under the proposed contract are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees published by the professional associations applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is hereby authorized to enter into an agreement with Freese and Nichols, Inc., for regulatory permitting, process evaluation, and design services for the Ray Roberts Water Treatment Plant Expansion Project for the Water Utilities Department a copy of which is attached hereto and incorporated by reference herein.

SECTION 2. The City Manager, or their designee, is authorized to expend funds as required by the attached contract.

SECTION 3. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 4. The findings in the preamble of this ordinance are incorporated herein by reference.

SECTION 5. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Brandon Chase McGee and seconded by Joe Holland. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	X			
Vicki Byrd, District 1:	X			
Brian Beck, District 2:	X			
Paul Meltzer, District 3:	X			
Joe Holland, District 4:	X			
Brandon Chase McGee, At Large Place 5:	X			
Jill Jester, At Large Place 6:	X			

PASSED AND APPROVED this the 22nd day of October, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: Lauren Thoden

CITY OF DENTON
DENTON, TEXAS

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

Docusign Envelope ID: 189B4565-A54B-47CB-A754-97C898BEC660

Docusign City Council Transmittal Coversheet

PSA	7574-029
File Name	RRWTP Expansion Design
Purchasing Contact	Erica Garcia
City Council Target Date	OCTOBER 22, 2024
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	24-2084

DS
LH

Docusign Envelope ID: 189B4565-A54B-47CB-A754-97C898BEC660

CITY OF DENTON, TEXAS

STANDARD AGREEMENT FOR ENGINEERING RELATED PROFESSIONAL SERVICES

This AGREEMENT is between the City of Denton, a Texas home-rule municipality ("CITY"), and Freese and Nichols, Inc., with its corporate office at 101 South Locust St, Suite 202, Denton, TX 76201 and authorized to do business in Texas, ("ENGINEER"), for a PROJECT generally described as: Ray Roberts Water Treatment Plant Expansion (the "PROJECT").

SECTION 1
Scope of Services

A. The CITY hereby agrees to retain the ENGINEER, and the ENGINEER hereby agrees to perform, professional engineering services set forth in the Scope of Services attached hereto as Attachment A. These services shall be performed in connection with the PROJECT.

B. Additional services, if any, will be requested in writing by the CITY. CITY shall not pay for any work performed by ENGINEER or its consultants, subcontractors and/or suppliers that has not been ordered in advance and in writing. It is specifically agreed that ENGINEER shall not be compensated for any additional work resulting from oral orders of any person.

SECTION 2
Compensation and Term of Agreement

A. The ENGINEER shall be compensated for all services provided pursuant to this AGREEMENT in an amount not to exceed $21,000,000 in the manner and in accordance with the fee schedule as set forth in Attachment A. Payment shall be considered full compensation for all labor, materials, supplies, and equipment necessary to complete the services described in Attachment A.

B. Unless otherwise terminated pursuant to Section 6. D. herein, this AGREEMENT shall be for a term beginning upon the effective date, as described below, and shall continue for a period which may reasonably be required for the completion of the PROJECT, until the expiration of the funds, or completion of the PROJECT and acceptance by the CITY, whichever occurs first. ENGINEER shall proceed diligently with the PROJECT to completion as described in the PROJECT schedule as set forth in Attachment A.

SECTION 3
Terms of Payment

Payments to the ENGINEER will be made as follows:

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A. Invoice and Payment

(1) The Engineer shall provide the City sufficient documentation, including but not limited to meeting the requirements set forth in the PROJECT schedule as set forth in Attachment A to reasonably substantiate the invoices.

(2) The ENGINEER will issue monthly invoices for all work performed under this AGREEMENT. Invoices for the uncontested performance of the particular services are due and payable within 30 days of receipt by City.

(3) Upon completion of services enumerated in Section 1, the final payment of any balance for the uncontested performance of the services will be due within 30 days of receipt of the final invoice.

(4) In the event of a disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The CITY will exercise reasonableness in contesting any bill or portion thereof. No interest will accrue on any contested portion of the billing until mutually resolved.

(5) If the CITY fails to make payment in full to ENGINEER for billings contested in good faith within 60 days of the amount due, the ENGINEER may, after giving 7 days' written notice to CITY, suspend services under this AGREEMENT until paid in full. In the event of suspension of services, the ENGINEER shall have no liability to CITY for delays or damages caused the CITY because of such suspension of services.

SECTION 4
Obligations of the Engineer

A. General

The ENGINEER will serve as the CITY's professional engineering representative under this AGREEMENT, providing professional engineering consultation and advice and furnishing customary services incidental thereto.

B. Standard of Care

The ENGINEER shall perform its services:

(1) with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and

(2) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

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C. Subsurface Investigations

(1) The ENGINEER shall advise the CITY with regard to the necessity for subcontract work such as special surveys, tests, test borings, or other subsurface investigations in connection with design and engineering work to be performed hereunder. The ENGINEER shall also advise the CITY concerning the results of same. Such surveys, tests, and investigations shall be furnished by the CITY, unless otherwise specified in Attachment A.

(2) In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect the total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER.

D. Preparation of Engineering Drawings

The ENGINEER will provide to the CITY the original drawings of all plans in ink on reproducible mylar sheets and electronic files in .pdf format, or as otherwise approved by CITY, which shall become the property of the CITY. CITY may use such drawings in any manner it desires; provided, however, that the ENGINEER shall not be liable for the use of such drawings for any project other than the PROJECT described herein.

E. Engineer's Personnel at Construction Site

(1) The presence or duties of the ENGINEER's personnel at a construction site, whether as on-site representatives or otherwise, do not make the ENGINEER or its personnel in any way responsible for those duties that belong to the CITY and/or the CITY's construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the AGREEMENT Documents and any health or safety precautions required by such construction work. The ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

(2) Except to the extent of specific site visits expressly detailed and set forth in Attachment A, the ENGINEER or its personnel shall have no obligation or responsibility to visit the construction site to become familiar with the progress or quality of the completed work on the PROJECT or to determine, in general, if the work on the PROJECT is being performed in a manner indicating that the

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PROJECT, when completed, will be in accordance with the AGREEMENT Documents, nor shall anything in the AGREEMENT Documents or this AGREEMENT between CITY and ENGINEER be construed as requiring ENGINEER to make exhaustive or continuous on-site inspections to discover latent defects in the work or otherwise check the quality or quantity of the work on the PROJECT. If the ENGINEER makes on-site observation(s) of a deviation from the AGREEMENT Documents, the ENGINEER shall inform the CITY.

(3) When professional certification of performance or characteristics of materials, systems or equipment is reasonably required to perform the services set forth in the Scope of Services, the ENGINEER shall be entitled to rely upon such certification to establish materials, systems or equipment and performance criteria to be required in the AGREEMENT Documents.

F. Opinions of Probable Cost, Financial Considerations, and Schedules

(1) The ENGINEER shall provide opinions of probable costs based on the current available information at the time of preparation, in accordance with Attachment A.

(2) In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, the ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the ENGINEER makes no warranty that the CITY's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from the ENGINEER's opinions, analyses, projections, or estimates.

G. Construction Progress Payments

Recommendations by the ENGINEER to the CITY for periodic construction progress payments to the construction contractor will be based on the ENGINEER's knowledge, information, and belief from selective sampling and observation that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by the ENGINEER to ascertain that the construction contractor has completed the work in exact accordance with the AGREEMENT Documents; that the final work will be acceptable in all respects; that the ENGINEER has made an examination to ascertain how or for what purpose the construction contractor has used the moneys paid; that title to any of the work, materials, or equipment has passed to the CITY free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between the CITY and the construction contractor that affect the amount that should be paid.

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H. Record Drawings

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. The ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

I. Right to Audit

(1) ENGINEER agrees that the CITY shall, until the expiration of five (5) years after final payment under this AGREEMENT, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of the ENGINEER involving transactions relating to this AGREEMENT. ENGINEER agrees that the CITY shall have access during normal working hours to all necessary ENGINEER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The CITY shall give ENGINEER reasonable advance notice of intended audits.

(2) ENGINEER further agrees to include in all its subconsultant agreements hereunder a provision to the effect that the subconsultant agrees that the CITY shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and photocopy any directly pertinent books, documents, papers and records of such subconsultant, involving transactions to the subcontract, and further, that the CITY shall have access during normal working hours to all subconsultant facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this section together with subsection (3) hereof. CITY shall give subconsultant reasonable advance notice of intended audits.

(3) ENGINEER and subconsultant agree to photocopy such documents as may be requested by the CITY. The CITY agrees to reimburse ENGINEER for the cost of copies at the rate published in the Texas Administrative Code in effect as of the time copying is performed.

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J. INSURANCE

(1) ENGINEER'S INSURANCE

a. Commercial General Liability – the ENGINEER shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than $1,000,000.00 per each occurrence with a $2,000,000.00 aggregate. If such Commercial General Liability insurance contains a general aggregate limit, it shall apply separately to this PROJECT or location.

   i. The CITY shall be included as an additional insured with all rights of defense under the CGL, using ISO additional insured endorsement or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the CITY. The Commercial General Liability insurance policy shall have no exclusions or endorsements that would alter or nullify: premises/operations, products/completed operations, contractual, personal injury, or advertising injury, which are normally contained within the policy, unless the CITY specifically approves such exclusions in writing.

   ii. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained in accordance with this AGREEMENT.

b. Business Auto – the ENGINEER shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than $1,000,000 each accident. Such insurance shall cover liability arising out of "any auto", including owned, hired, and non-owned autos, when said vehicle is used in the course of the PROJECT. If the engineer owns no vehicles, coverage for hired or non-owned is acceptable.

   i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by ENGINEER pursuant to this AGREEMENT or under any applicable auto physical damage coverage.

c. Workers' Compensation – ENGINEER shall maintain workers compensation and employers liability insurance and, if necessary,

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commercial umbrella liability insurance with a limit of not less than $100,000.00 each accident for bodily injury by accident or $100,000.00 each employee for bodily injury by disease, with $500,000.00 policy limit.

i. ENGINEER waives all rights against the CITY and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by workers compensation and employer's liability or commercial umbrella insurance obtained by ENGINEER pursuant to this AGREEMENT.

d. Professional Liability – ENGINEER shall maintain professional liability, a claims-made policy, with a minimum of $1,000,000.00 per claim and aggregate. The policy shall contain a retroactive date prior to the date of the AGREEMENT or the first date of services to be performed, whichever is earlier. Coverage shall be maintained for a period of 5 years following the completion of the AGREEMENT. An annual certificate of insurance specifically referencing this PROJECT shall be submitted to the CITY for each year following completion of the AGREEMENT.

(2) GENERAL INSURANCE REQUIREMENTS

a. Certificates of insurance evidencing that the ENGINEER has obtained all required insurance shall be attached to this AGREEMENT prior to its execution.

b. Applicable policies shall be endorsed to name the CITY an Additional Insured thereon, subject to any defense provided by the policy, as its interests may appear. The term CITY shall include its employees, officers, officials, agents, and volunteers as respects the contracted services.

c. Certificate(s) of insurance shall document that insurance coverage specified in this AGREEMENT are provided under applicable policies documented thereon.

d. Any failure on part of the CITY to attach the required insurance documentation hereto shall not constitute a waiver of the insurance requirements.

e. A minimum of thirty (30) days notice of cancellation or material change in coverage shall be provided to the CITY. A ten (10) days notice shall be acceptable in the event of non-payment of premium. Notice shall be sent to the respective Department Director (by name), City of Denton, 901 Texas Street, Denton, Texas 76209.

f. Insurers for all policies must be authorized to do business in the State of

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Texas and have a minimum rating of A:V or greater, in the current A.M. Best Key Rating Guide or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management.

g. Any deductible or self insured retention in excess of $25,000.00 that would change or alter the requirements herein is subject to approval by the CITY in writing, if coverage is not provided on a first-dollar basis. The CITY, at it sole discretion, may consent to alternative coverage maintained through insurance pools or risk retention groups. Dedicated financial resources or letters of credit may also be acceptable to the CITY.

h. Applicable policies shall each be endorsed with a waiver of subrogation in favor of the CITY as respects the PROJECT.

i. The CITY shall be entitled, upon its request and without incurring expense, to review the ENGINEER's insurance policies including endorsements thereto and, at the CITY's discretion; the ENGINEER may be required to provide proof of insurance premium payments.

j. Lines of coverage, other than Professional Liability, underwritten on a claims-made basis, shall contain a retroactive date coincident with or prior to the date of the AGREEMENT. The certificate of insurance shall state both the retroactive date and that the coverage is claims-made.

k. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption nor restrictive modification or changes from date of commencement of the PROJECT until final payment and termination of any coverage required to be maintained after final payments.

l. The CITY shall not be responsible for the direct payment of any insurance premiums required by this AGREEMENT.

m. Sub consultants and subcontractors to/of the ENGINEER shall be required by the ENGINEER to maintain the same or reasonably equivalent insurance coverage as required for the ENGINEER. When sub consultants/subcontractors maintain insurance coverage, ENGINEER shall provide CITY with documentation thereof on a certificate of insurance.

K. Independent Consultant

The ENGINEER agrees to perform all services as an independent consultant and not as a subcontractor, agent, or employee of the CITY. The doctrine of *respondeat superior* shall not apply.

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L. Disclosure

The ENGINEER acknowledges to the CITY that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interest, direct or indirect, in property abutting the proposed PROJECT and business relationships with abutting property cities. The ENGINEER further acknowledges that it will make disclosure in writing of any conflicts of interest that develop subsequent to the signing of this AGREEMENT and prior to final payment under the AGREEMENT.

M. Asbestos or Hazardous Substances

(1) If asbestos or hazardous substances in any form are encountered or suspected, the ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.

(2) If asbestos or other hazardous substances are suspected, the CITY may request the ENGINEER to assist in obtaining the services of a qualified subcontractor to manage the remediation activities of the PROJECT.

N. Permitting Authorities - Design Changes

If permitting authorities require design changes so as to comply with published design criteria and/or current engineering practice standards which the ENGINEER should have been aware of at the time this AGREEMENT was executed, the ENGINEER shall revise plans and specifications, as required, at its own cost and expense. However, if design changes are required due to the changes in the permitting authorities' published design criteria and/or practice standards criteria which are published after the date of this AGREEMENT which the ENGINEER could not have been reasonably aware of, the ENGINEER shall notify the CITY of such changes and an adjustment in compensation will be made through an amendment to this AGREEMENT.

O. Schedule

ENGINEER shall manage the PROJECT in accordance with the schedule developed per Attachment A to this AGREEMENT.

P. Equal Opportunity

(1) **Equal Employment Opportunity:** ENGINEER and ENGINEER's agents shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this AGREEMENT.

(2) **Americans with Disabilities Act (ADA) Compliance:** ENGINEER and

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ENGINEER's agents shall not engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

SECTION 5
Obligations of the City

A. City-Furnished Data

ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

B. Access to Facilities and Property

The CITY will make its facilities accessible to the ENGINEER as required for the ENGINEER's performance of its services. The CITY will perform, at no cost to the ENGINEER, such tests of equipment, machinery, pipelines, and other components of the CITY's facilities as may be required in connection with the ENGINEER's services. The CITY will be responsible for all acts of the CITY's personnel.

C. Advertisements, Permits, and Access

Unless otherwise agreed to in the Scope of Services, the CITY will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for the ENGINEER's services or PROJECT construction.

D. Timely Review

The CITY will examine the ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as the CITY deems appropriate; and render in writing decisions required by the CITY in a timely manner in accordance with the PROJECT schedule prepared in accordance with Attachment A.

E. Prompt Notice

The CITY will give prompt written notice to the ENGINEER whenever CITY observes or becomes aware of any development that affects the scope or timing of the ENGINEER's services or of any defect in the work of the ENGINEER or construction contractors.

F. Asbestos or Hazardous Substances Release.

(1) CITY acknowledges ENGINEER will perform part of the work at CITY's

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facilities that may contain hazardous materials, including asbestos containing materials, or conditions, and that ENGINEER had no prior role in the generation, treatment, storage, or disposition of such materials. In consideration of the associated risks that may give rise to claims by third parties or employees of City, City hereby releases ENGINEER from any damage or liability related to the presence of such materials.

(2) The release required above shall not apply in the event the discharge, release or escape of hazardous substances, contaminants, or asbestos is a result of ENGINEER's negligence or if ENGINEER brings such hazardous substance, contaminant or asbestos onto the PROJECT.

G. Contractor Indemnification and Claims

The CITY agrees to include in all construction contracts the provisions of Article IV.E. regarding the ENGINEER's Personnel at Construction Site, and provisions providing for contractor indemnification of the CITY and the ENGINEER for contractor's negligence.

H. Contractor Claims and Third-Party Beneficiaries

(1) The CITY agrees to include the following clause in all contracts with construction contractors and equipment or materials suppliers:

> "Contractors, subcontractors and equipment and materials suppliers on the PROJECT, or their sureties, shall maintain no direct action against the ENGINEER, its officers, employees, and subcontractors, for any claim arising out of, in connection with, or resulting from the engineering services performed. Only the CITY will be the beneficiary of any undertaking by the ENGINEER."

(2) This AGREEMENT gives no rights or benefits to anyone other than the CITY and the ENGINEER and there are no third-party beneficiaries.

(3) The CITY will include in each agreement it enters into with any other entity or person regarding the PROJECT a provision that such entity or person shall have no third-party beneficiary rights under this AGREEMENT.

(4) Nothing contained in this Section H. shall be construed as a waiver of any right the CITY has to bring a claim against ENGINEER.

I. CITY's Insurance

(1) The CITY may maintain property insurance on certain pre-existing structures associated with the PROJECT.

(2) The CITY may secure Builders Risk/Installation insurance at the replacement

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cost value of the PROJECT. The CITY may provide ENGINEER a copy of the policy or documentation of such on a certificate of insurance.

J. Litigation Assistance

The Scope of Services does not include costs of the ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY. In the event CITY requests such services of the ENGINEER, this AGREEMENT shall be amended or a separate agreement will be negotiated between the parties.

K. Changes

The CITY may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect the ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT with appropriate CITY approval.

SECTION 6
General Legal Provisions

A. Authorization to Proceed

ENGINEER shall be authorized to proceed with this AGREEMENT upon receipt of a written Notice to Proceed from the CITY.

B. Reuse of Project Documents

All designs, drawings, specifications, documents, and other work products of the ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. Reuse, change, or alteration by the CITY or by others acting through or on behalf of the CITY of any such instruments of service without the written permission of the ENGINEER will be at the CITY's sole risk. The CITY shall own the final designs, drawings, specifications and documents.

C. Force Majeure

The ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the ENGINEER that prevent ENGINEER’s performance of its obligations hereunder.

D. Termination

(1) This AGREEMENT may be terminated:

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a. by the City for its convenience upon 30 days' written notice to ENGINEER.

b. by either the CITY or the ENGINEER for cause if either party fails substantially to perform through no fault of the other and the nonperforming party does not commence correction of such nonperformance within 5 days' written notice or thereafter fails to diligently complete the correction.

(2) If this AGREEMENT is terminated for the convenience of the City, the ENGINEER will be paid for termination expenses as follows:

a. Cost of reproduction of partial or complete studies, plans, specifications or other forms of ENGINEER'S work product;

b. Out-of-pocket expenses for purchasing electronic data files and other data storage supplies or services;

c. The time requirements for the ENGINEER'S personnel to document the work underway at the time of the CITY'S termination for convenience so that the work effort is suitable for long time storage.

(3) Prior to proceeding with termination services, the ENGINEER will submit to the CITY an itemized statement of all termination expenses. The CITY'S approval will be obtained in writing prior to proceeding with termination services.

E. Suspension, Delay, or Interruption to Work

The CITY may suspend, delay, or interrupt the services of the ENGINEER for the convenience of the CITY. In the event of such suspension, delay, or interruption, an equitable adjustment in the PROJECT's schedule, commitment and cost of the ENGINEER's personnel and subcontractors, and ENGINEER's compensation will be made.

F. Indemnification

IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE SECTION 271.904, THE ENGINEER SHALL INDEMNIFY OR HOLD HARMLESS THE CITY AGAINST LIABILITY FOR ANY DAMAGE COMMITTED BY THE ENGINEER OR ENGINEER'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ENGINEER EXERCISES CONTROL TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER. CITY IS ENTITLED TO RECOVER ITS REASONABLE ATTORNEY'S FEES IN PROPORTION TO THE ENGINEER'S LIABILITY.

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G. Assignment

Neither party shall assign all or any part of this AGREEMENT without the prior written consent of the other party.

H. Jurisdiction

The law of the State of Texas shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. The venue for any litigation related to this AGREEMENT shall be Denton County, Texas.

I. Severability and Survival

If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. Sections 5.F., 6.B., 6.D., 6.F., 6.H., and 6.I. shall survive termination of this AGREEMENT for any cause.

J. Observe and Comply

ENGINEER shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this AGREEMENT and the work hereunder, and shall observe and comply with all orders, laws ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. **ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS OR LIABILITY ARISING OUT OF THE VIOLATION OF ANY SUCH ORDER, LAW, ORDINANCE, OR REGULATION, WHETHER IT BE BY ITSELF OR ITS EMPLOYEES**.

K. Immigration Nationality Act

ENGINEER shall verify the identity and employment eligibility of its employees who perform work under this AGREEMENT, including completing the Employment Eligibility Verification Form (I-9). Upon request by CITY, ENGINEER shall provide CITY with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this AGREEMENT. ENGINEER shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any ENGINEER employee who is not legally eligible to perform such services. **ENGINEER SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY ENGINEER, ENGINEER'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** CITY, upon written notice to ENGINEER, shall have the

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right to immediately terminate this AGREEMENT for violations of this provision by ENGINEER.

L. Prohibition on Contracts with Companies Boycotting Israel

Engineer acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

M. Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Sections 2252 and 2270 of the Texas Government Code restricts CITY from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer, pursuant to Chapters 2252 and 2270, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization***. Failure to meet or maintain the requirements under this provision will be considered a material breach.

N. Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

O. Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

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Engineer acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms "discriminate against a firearm entity or firearm trade association," "firearm entity" and "firearm trade association" shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Engineer certifies that Engineer's signature provides written verification to the City that Engineer: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

P. Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2274, and Engineer is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

Q. Prohibition Against Personal Interest in Contracts

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance 23-1165 and in the City Charter chapter 2 article XI(Ethics). Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

R. Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract

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unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/filinginfo/1295/
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

S. Agreement Documents

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, which supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. This AGREEMENT may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A - Scope of Services, Compensation, and Project Schedule

These documents make up the AGREEMENT documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the AGREEMENT documents, the inconsistency or conflict shall be resolved by giving precedence first to the written AGREEMENT then to the AGREEMENT documents in the order in which they are listed above.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

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Duly executed by each party's designated representative to be effective on 10/22/2024.

BY:
CITY OF DENTON, TEXAS

DocuSigned by:
Sara Hensley
5236DB296270423...

Sara Hensley, City Manager

BY:
ENGINEER
Freese and Nichols, Inc.

Signed by:
25028ZAE3C534C4...

James Naylor, PE

Full Name: James Naylor

2024-1220441
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

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THIS AGREEMENT HAS BEEN BOTH REVIEWED AND APPROVED as to financial and operational obligations and business terms.

Signed by:
Stephen D Gay
FEB48BB9728E4A9...
Signature

Director Water Utilities
Title

Water Utilities
Department

Date Signed: 09/30/2024

ATTEST:
LAUREN THODEN, CITY SECRETARY

DocuSigned by:
Lauren Thoden
BY: D09D09CAD33D487...

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
Marcella Lunn
BY: 4B070831B4AA438...

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!¢! / I a9b¢ A – ENGINEERING SCOPE OF SERVICES
City of Denton, Texas
Ray Roberts WTP Expansion to 40 MGD

PROJECT UNDERSTANDING AND ASSUMPTIONS:

The City of Denton (Owner) desires to make improvements to the existing Ray Roberts Water Treatment Plant (WTP) to expand the treatment capacity. The existing Ray Roberts WTP has a treatment capacity of approximately 20 million gallons per day (MGD) and is a conventional surface water treatment plant utilizing pre-ozone, intermediate ozone, and biologically active filters. With the continued residential, commercial, and industrial growth experienced by the Owner, the Owner intends to expand the capacity to approximately 40 MGD (i.e., existing 20 MGD conventional treatment plus new 20 MGD expanded treatment). It is currently anticipated that the Ray Roberts WTP site will need to support a build-out capacity of approximately 110 MGD. This build-out condition will be reviewed as part of the Project in the preliminary design phase.

The expanded treatment strategy for the Ray Roberts WTP will generally include the following major processes:

- Raw water pump station (modified, serves existing Conventional WTP and proposed Membrane WTP),
- Pre-ozone contactor (proposed, serves proposed Membrane WTP),
- Pumped diffusion/rapid mix (proposed, serves proposed Membrane WTP),
- Flocculation and sedimentation basins with inclined plate settlers and differential head clarifiers (proposed, serves proposed Membrane WTP),
- Low-pressure membrane filtration (proposed, serves proposed Membrane WTP),
- Intermediate ozone contactor (proposed, serves proposed Membrane WTP),
- Biologically active filtration (proposed, serves proposed Membrane WTP),
- Disinfection by sodium hypochlorite (12.5-percent solution) and liquid ammonium sulfate (modified, serves existing Conventional WTP and proposed Membrane WTP),
- Transfer and filter backwash pump station (proposed, serves proposed Membrane WTP),
- Clearwell/potable water ground storage (expanded, serves existing Conventional WTP and proposed Membrane WTP),
- High service pump station (modified, serves existing Conventional WTP and proposed Membrane WTP),
- Chemical systems:
    - Aluminum chlorohydrate or polyaluminum chloride storage and feed systems (proposed, serves proposed Membrane WTP),
    - Sodium hydroxide/caustic storage and feed systems (proposed, serves proposed Membrane WTP),
    - Sodium hypochlorite storage and feed (modified, serves existing Conventional WTP and proposed Membrane WTP),
    - Liquid ammonium sulfate storage and feed systems (modified, serves existing Conventional WTP and proposed Membrane WTP),

FNI____
OWNER____

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  - Fluoride feed systems (modified, serves existing Conventional WTP and proposed Membrane WTP), and
- Solids handling utilizing a solids holding tank/thickener and centrifuge dewatering process (proposed, serves Membrane WTP).

Additional information regarding each of the major project features is provided in the attached *Memorandum of Understanding* (MOU) dated April 4, 2024, and consisting of 20 pages.

Pilot Study: With the addition of low-pressure membranes, a pilot study will be required to comply with the Texas Commission on Environmental Quality (TCEQ) requirements for innovative treatment technologies. Freese and Nichols, Inc. (FNI) will prepare a pilot study protocol, assist the Owner with the execution of the pilot study, and prepare a pilot report for review and approval by the TCEQ. This pilot study will be limited to the minimum 90-day requirement established by the TCEQ.

Preliminary Design: FNI will prepare a preliminary design report (PDR) summarizing the reviewed water quality and flow data and the basis of design for each of the major project units identified in the MOU. This Preliminary Design phase will expedite the design for those processes where the expansion can largely follow the concepts laid out in the original plant design and will allow for more detailed analysis in the specific areas of the WTP that require a new expansion concept to be established, such as the inclined plate settlers and the low-pressure membrane system.

Survey: FNI will subcontract the services of a licensed surveyor to complete a survey of the existing site and key hydraulic structures as well as complete boundary and topographic surveying of the proposed expansion area to develop one-foot contours. The survey will also tie in proposed bores and existing piping tie-in locations as identified by the construction manager at risk (CMAR) subsurface utility exploration (SUE) work.

Geotechnical: FNI will provide geotechnical services that include the development of a geotechnical memorandum to support the design for new structures at the Ray Roberts WTP. Services will include the drilling of bores at the existing plant site to document the subsurface conditions at new key structures as defined in the Special Services section below. The proposed geotechnical report will include recommendations for foundations, pavement, dewatering, excavation, shoring, fill, subgrade preparation, and slope stability for the proposed structures.

Detailed Design: FNI will provide the following design phase services for the processes described in this Scope of Services and the MOU, as may be adjusted based on the outcome of the preliminary design phase. The project will be executed using Autodesk AutoCAD, Autodesk Civil 3D, and Autodesk Revit design software for major structures. Design will include the following:

- Process mechanical design,
- Structural design,
- Electrical design,
- Instrumentation and controls design,
- SCADA design,

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- Architectural design,
- HVAC and plumbing design, and
- Drainage, paving, yard piping, and general site civil improvements.

Deliverables will be provided for Owner review at Level I (approximately 20-30%), Level II (approximately 50-60%), and Level III (approximately 80-90%) deliverable phases. The primary deliverable at Level I will be the initial Revit designs of major unit processes, electrical one-line diagrams, and process and instrumentation diagrams (P&IDs) which will be reviewed at a workshop as described in Article I. For subsequent deliverables, a status set of drawings and specifications will be produced for review by the Owner and the CMAR. A workshop will be conducted to collect and document all comments for inclusion in each subsequent design milestone deliverable. The CMAR has primary responsibility to develop, update, and maintain the cost model for all phases of the Project, with input from FNI. FNI will work with the CMAR to review the cost model and any updates as well as to confirm the assumptions built into the cost model are in line with the anticipated remaining design development.

Construction Manager at Risk: The Owner has selected that this Project will utilize a collaborative delivery method including the use of a construction manager at risk (CMAR). FNI will work with the CMAR through design and construction phases of the Project. The scope of work assumes preparation and issuance of a maximum of five (5) guaranteed maximum price (GMP) proposal packages for this Project. A general assumption of the scope of the proposed GMP packages is described below. Construction Contract Document packages beyond five (5) will be an Additional Service.

- GMP Package #1: Procurement of the inclined plate settler and low-pressure membrane pilots, constructing the pilot support facilities, and installing the pilot units.
- GMP Package #2: Procurement of long lead-time equipment and electrical components.
- GMP Package #3: Plant components not impacted by the low-pressure membrane pilot.
- GMP Package #4: Low-pressure membrane procurement documents.
- GMP Package #5: Plant components associated with the outcome of the low-pressure membrane pilot.

The CMAR will have primary responsibility for developing and maintaining all cost and schedule models for the Project.

Advertisement/Proposal Phase: Support the Owner and CMAR in their bidding and procurement of equipment, materials, contracting, and subcontracting services based on the number of packages identified above. FNI will assist the CMAR and Owner by providing an “issued for bid” (IFB) (100%) set of documents, participating in pre-bid meetings, and responding to bidder questions.

Construction Contract Administration: FNI will provide construction contract administration services and furnish construction management and specialty observation services as outlined in this Exhibit. The construction duration is estimated to be thirty-eight (38) months. Resident Project Representation and Specialty Construction Electrical Inspection services will be provided for thirty-four (34) months and 10 months, respectively. A construction duration longer than this assumption or the need for additional

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construction management/inspection time onsite will require additional construction contract administration services, which may be provided as an Additional Service.

Other Services: In addition to these services, FNI will provide the following services, as outlined in this Exhibit:

- Facility startup and commissioning;
- Operations and maintenance manual preparation;
- Operations training and support;
- United States Army Corps of Engineers coordination;
- Environmental services as required for Texas Water Development Board (TWDB) funding; and
- Funding support.

Project Assumptions: The scope of work, level of effort, budget and schedule is based on the following assumptions. Additional efforts may be provided as an Owner directed service.

- This scope of work assumes the Project is delivered using CMAR.
- A maximum of five (5) construction contract packages will be prepared for the Owner and CMAR. Additional packages will be provided as an Additional Service.
- The CMAR will be responsible for potholing utilities at tie-in points and critical crossings, based on requests and directions provided by FNI as part of their subsurface utility exploration (SUE). It is further assumed that the CMAR will be responsible for obtaining the necessary permits and utility locates (Texas One-call) ahead of any potholing activities.
- The CMAR will be responsible for developing Division 00 Contract Documents. The CMAR must include provisions in the Division 00 contract documents to comply with the Texas Water Development Board (TWDB) State Water Implementation Fund for Texas (SWIFT) requirements. FNI will review. The Owner agrees to include provisions in the General Conditions that require the CMAR to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by the CMAR and/or Contractor for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the Contractor's indemnification provisions where the Owner is named as an indemnified party.
- In performing these services, it is understood that FNI does not guarantee the CMAR's performance, nor is FNI responsible for the supervision of the CMAR's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by the CMAR, or any safety precautions and programs relating in any way to the condition of the premises, the work of the CMAR, Contractor or any Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.
- FNI will provide a Resident Project Representative (RPR) and a Specialty Construction Electrical Inspector during construction, but FNI will not provide a Construction Manager. The Owner will provide a Construction Manager and inspection staff during construction.
- The CMAR will be primarily responsible for the cost model and maintenance of a design change trend log. FNI will participate in the monitoring and review of the cost model as the design progresses.

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- The CMAR will be responsible for providing construction materials testing for the purposes of Owner quality control during construction. In addition, the CMAR will be responsible for coordinating the work of testing laboratories and inspection bureaus required for testing or inspection of materials.
- The CMAR will provide electrical relay, power system, and arc flash studies as required by the technical specifications. These studies will be submitted during the construction phase of the Project.
- The Owner and/or CMAR will handle all requirements and activities associated with the City of Denton building permit process, if required.
- Building construction will be concrete masonry units (CMU) with a split face veneer and a standing seam metal roofing system with a hip configuration.
- The CMAR will be responsible for developing a Commissioning Plan, splitting the project into manageable Functional and Performance Test Packages (FAPTPs), developing these packages as described below, and submitting commissioning documentation for each FAPTP. The CMAR will also develop the Training Schedule for the Owner's operations and maintenance staff.
- The Owner's water quality laboratory will be used for the pilot stud.

ARTICLE I - BASIC SERVICES: Freese and Nichols, Inc. (FNI) shall render the following professional services for the development of the Project:

A. Project Management, Quality Control, and Quality Assurance:

1. Perform daily FNI management duties associated with the Design and Construction Phase services for the Project, including progress monitoring and monthly progress reporting, scheduling, general correspondence, documentation, office administration, project team management, implementation of a quality assurance (QA) and quality control (QC) program for the Project, and invoicing for the scope items identified below. Documentation shall be in accordance with Owner requirements for the Project. These duties include maintaining regular communication with the Owner to help meet the needs of the Owner in a timely manner and executing work per the work plan, budget, and schedule.

2. Project controls shall include the management of the following "living documents." Some of these Project controls, as indicated below, will be the responsibility of others and FNI will provide a supporting role:
   a. Comment Log – FNI will be primarily responsible for the comment log with input from the CMAR and the Owner.
   b. Decision Log – FNI will be primarily responsible for the decision log with input from the CMAR and the Owner.
   c. Action Item Log – FNI will be primarily responsible for the action item log during design with input from the CMAR and the Owner. During construction, the CMAR will be primarily responsible for the action item log with input from FNI and the Owner.
   d. Risk Register – The CMAR will be primarily responsible for the risk register with input from FNI and the Owner.

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e. Cost Model – The CMAR will be primarily responsible for the cost model and maintenance of a design change trend log. FNI will review and monitor the CMAR's cost model as the design progresses. The scope of work assumes the review of the cost model updates at Level I (20-30%), Level II (50-60%), Level III (80-90%), and Issued for Bid (100%) submittal stages and intermittently at the request of the Owner if major scope change is introduced into the project.

3. Manage efforts of internal design team and subconsultants on the Project and perform quality control reviews of all deliverables. Quality control reviews will include use of FNI's disciplinary QC checklists, provision of QC plan documentation and provision of comment/response forms for documenting and responding to Owner comments on all submittals.

4. Prepare a Microsoft Project schedule and provide monthly updates including necessary revisions to bring the Project back on schedule if needed. The Project schedule will not be resource loaded.

5. Utilize the Owner provided web-based document control system (DCS) (Procore). Share documents through the DCS including all deliverables, minutes, decision logs, action items, reports, construction submittals, and pertinent documents.

6. Prepare monthly project reporting including status report, recent activities, upcoming activities, action items log, decisions made log, budget updates, schedule updates, and scope changes. Prepare and submit monthly invoices.

B. Opinions of Probable Construction Cost:

1. Opinions of probable construction cost (OPCC) will be developed by the CMAR for the various project completion levels.

2. In providing opinions of costs, financial analysis, economic feasibility projections, and schedules for the Project, the Owner recognizes that FNI has no control over any of the following: the cost or price of labor and materials from Contractors and suppliers; unknown conditions of existing equipment or structures that may affect operations and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operation personnel; and other market, economic and operational factors that may materially affect the ultimate project cost or schedule. Therefore, the Owner recognizes that FNI makes no warranty or guarantee that the actual project cost, financial aspects, economic feasibility, or schedules will not vary from FNI's opinions, analyses, projections, or estimates.

C. Phase 1 - Preliminary Design:

1. Meetings and Site Visits:
   a. Conduct up to two (2) site visits by the engineering team to the WTP, for field evaluation and coordination of preliminary design needs for completion of the Project.

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b. Preliminary Control Strategy Workshop No. 1: Conduct one (1) workshop with the Owner to discuss the control strategy for the following process areas:
   i. Raw Water Pump Station.
   ii. High Service Pump Station.
   iii. Clearwell/Potable Water Ground Storage.
c. Preliminary Control Strategy Workshop No. 2: Conduct one (1) workshop with the Owner to discuss the control strategy for the following process areas:
   i. Pre-Ozone Contactor.
   ii. Pumped Diffusion/Rapid Mix.
   iii. Flocculation/Sedimentation Basins.
   iv. Intermediate Ozone Contactors.
d. Preliminary Control Strategy Workshop No. 3: Conduct one (1) workshop with the Owner to discuss the control strategy for the following process areas:
   i. Membrane Feed Pump Station.
   ii. Low-Pressure Membrane Filtration.
   iii. Biologically Active Filtration.
   iv. Transfer/Filter Backwash Pump Station.
e. Preliminary Control Strategy Workshop No. 4: Conduct one (1) workshop with the Owner to discuss the control strategy for the following process areas:
   i. Disinfection System (Ozone production and sodium hypochlorite and liquid ammonium sulfate storage and feed).
   ii. Other Chemical Systems (Coagulant and caustic storage and feed).
f. Preliminary Control Strategy Workshop No. 5: Conduct one (1) workshop with the Owner to discuss the control strategy for the following process areas:
   i. Solids Handling System.

2. Advise Owner as to the necessity of Owner's providing or obtaining data or services from others and assist Owner regarding any such services.

3. Data Collection and Review: Owner will provide available plant operations data, flow data, population and growth projections, and other data listed below. FNI will review and analyze data provided. The historical data listed below is requested for the previous five years.
   a. Owner Data Request – Raw Water Quality: Microsoft Excel file containing all periodic measurements of raw water alkalinity, aluminum, barium, bromide, bromate, calcium, chloride, iron, magnesium, manganese, organic carbon – dissolved, organic carbon – total, pH, silica, sodium, sulfate, total dissolved solids, total hardness, total suspended solids, turbidity, UV_{254} absorbance, and water temperature for the designated period.
   b. Owner Data Request – Finished Water Quality: Microsoft Excel file containing all periodic measurements of finished water alkalinity, aluminum, barium, bromide, bromate, calcium, chloride, iron, magnesium, manganese, organic carbon – dissolved, organic carbon – total, pH, silica, sodium, sulfate, total dissolved solids, total hardness, total suspended solids, turbidity, UV_{254} absorbance, and water temperature for the designated period.

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c. Owner Data Request – Raw Water Flow Measurements: Microsoft Excel file containing 15-minute increment raw water flow measurements for the treatment plant for the designated period.
d. Owner Data Request – Finished Water Flow Measurements: Microsoft Excel file containing 15-minute increment finished water flow measurements for the treatment plant for the designated period.
e. Owner Data Request – Chemical Dosing: Microsoft Excel file containing 1-hour increment chemical dosing setpoints for each chemical used at the WTP.
f. Owner Data Request – Copies of Surface Water Monthly Operating Reports (SWMORs) containing daily operational information for the designated period.
g. Owner Data Request – Copy of current TCEQ approved concentration-time (CT) study.
h. Owner Data Request – Previous regulatory inspection reports of the treatment plant for the designated period.
i. FNI will analyze the historical raw water data to develop raw water basis of design concentrations.
j. FNI will review relevant Owner-provided record drawings, equipment shop drawings, and/or O&M manuals.

4. Regulatory Compliance and Process Capacity Review:
   a. Perform a desktop capacity assessment of major treatment processes for compliance with TCEQ regulatory design criteria and redundancy guidelines. The following processes will be included in the assessment:
      i. Ozone generation.
      ii. Liquid oxygen.
      iii. Sodium hypochlorite (12.5-percent solution).
      iv. Liquid ammonium sulfate.

5. Preliminary Design Report:
   a. Evaluate results of the Data Collection and Review and Regulatory Compliance and Process Capacity Review above and develop solutions for plant improvements and/or expansions required to meet Project goals.
   b. Prepare preliminary designs for the following processes as described in the Project Understanding and Assumptions section of this Exhibit and the MOU:
      i. Raw water pump station (existing to be modified/expanded).
      ii. Pre-ozone contactor (proposed).
      iii. Pumped diffusion vault/rapid mix (proposed).
      iv. Flow split (proposed).
      v. Flocculation/sedimentation utilizing inclined plate settlers and differential head clarifier solids removal technology – based on the results of the inclined plate settler pilot study (proposed).
      vi. Membrane Feed Pump Station (proposed)
      vii. Low-pressure membrane – based on the results of the low-pressure membrane pilot study (proposed).

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viii. Intermediate ozone contactor (proposed).
ix. Biologically active filters (proposed).
x. Transfer and backwash pump station (proposed).
xi. Clearwell (proposed).
xii. High service pump station (existing to be modified/expanded).
xiii. Chemical improvements associated with the liquid oxygen storage system (existing to be expanded), oxygen vaporizers (existing to be expanded), ozone generation (existing to be replaced and expanded), Membrane WTP coagulant storage and feed (proposed), Membrane WTP sodium hydroxide storage and feed (proposed), sodium hypochlorite storage and feed (existing to be modified/expanded), and liquid ammonium sulfate feed (existing to be modified/expanded).
xiv. Biologically active filter blowers (proposed).
xv. Main drain sump pump station (proposed).
xvi. Spent backwash equalization and recycle pump station (proposed).
xvii. Administration/Operations/Membrane building (proposed).
xviii. Membrane WTP solids handling: solids equalization/thickening and centrifuge dewatering (proposed).
xix. Maintenance and electrical shop (proposed).
xx. Electrical improvements (existing to be modified/expanded).
xxi. Instrumentation and control improvements (existing to be modified/expanded).
xxii. Yard piping and site civil improvements (existing to be modified/expanded).

c. Review Workshops and Meetings:
   i. Conduct a Draft PDR (Level I) Review Workshop - (20-30% Design Level): The Level I review will include a single-day workshop to review the draft preliminary design report, initial process and instrumentation diagrams, process control concepts, relevant one-line diagrams, proposed process layouts, and specification list.

d. Deliverables:
   i. Preliminary Design Report (PDR) documenting the calculations and preliminary design of the facilities. The PDR will clearly identify the selected equipment, process flow and instrumentation diagrams (P&ID), process control concepts, relevant one-line diagrams, proposed process layouts and detailed sketches, cut sheets and equipment O&M information. This will include up to 30% design-level drawings, detailed design criteria development and outline specifications for the design phase. Provide one (1) electronic PDF draft copy to Owner for review. Incorporate comments and provide one (1) electronic PDF upon incorporation of review comments. The PDR will be prepared to comply with the Texas Water Development Board (TWDB) State Water Implementation Fund for Texas (SWIFT) requirements.

D. **Construction Manager-at-Risk (CMAR) Coordination:**

1. Conduct one (1) 8-hour partnering and kickoff meeting with the CMAR and Owner to review scope, schedule, and budget; to determine any special conditions that may affect the Project; to discuss administrative requirements of Owner; and to review Project criteria and the Owner's goals and expectations for the Project.

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2. CMAR and Design Team Coordination Meetings: The FNI Design Team will attend up to forty (40) one-hour biweekly design coordination videoconferences with the CMAR to discuss design-related items.

3. CMAR and Owner Coordination Meetings: The FNI Design Team will attend up to twenty (20) one-hour monthly coordination videoconferences with the CMAR and Owner to discuss the Project.

4. CMAR and Owner Funding Coordination Meetings: The FNI Design Team will attend up to two (2) one-hour coordination videoconferences with the CMAR and Owner to discuss the funding application prior to meeting with the TWDB's Regional Water Project Development Team.

5. Program Evaluation Review:
   a. FNI will review the evaluation of the Project and project budget prepared by the CMAR.
   b. FNI will attend one (1) four-hour videoconference with the CMAR and OWNER to discuss the CMAR program evaluation.

6. Construction Management Plan Review:
   a. FNI will review the construction management plan prepared by the CMAR.
   b. FNI will attend up to four (4) two-hour videoconferences with the CMAR and OWNER to discuss the CMAR's construction management plan and updates.

7. Project Phasing and Schedule Review:
   a. FNI will review the project phase and schedule prepared by the CMAR.
   b. FNI will attend up to four (4) four-hour videoconferences with the CMAR and OWNER to discuss the CMAR's project phasing and schedule.

8. Cost Model Review:
   a. FNI will review the cost model prepared by the CMAR.
   b. FNI will attend up to four (4) two-hour videoconferences with the CMAR and OWNER to discuss the CMAR's cost model.

9. Design Documents Reviews:
   a. The CMAR will participate in design document reviews for each deliverable identified in this Scope of Services.
   b. FNI's participation in design document review meetings are identified in the Preliminary Design Phase and Detailed Design Phase sections of this Scope of Services.

E. Phase 2 – Final Design Services:

1. Meetings and Site Visits:
   a. Conduct up to two (2) additional site visits by the engineering team to the treatment plant, for coordination on detailed design aspects for completion of the Project.

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b. Final Control Strategy Workshop No. 1: Conduct one (1) workshop with the Owner to discuss the final control strategy for the following process areas:
   i. Raw Water Pump Station
   ii. High Service Pump Station
   iii. Clearwell/Potable Water Ground Storage
   iv. Pre-Ozone Contactor
   v. Pumped Diffusion/Rapid Mix
   vi. Flocculation/Sedimentation Basins
   vii. Intermediate Ozone Contactors
   viii. Solids Handling System
c. Final Control Strategy Workshop No. 2: Conduct one (1) workshop with the Owner to discuss the final control strategy for the following process areas:
   i. Membrane Feed Pump Station
   ii. Low-Pressure Membrane Filtration
   iii. Biologically Active Filtration
   iv. Transfer/Filter Backwash Pump Station
   v. Disinfection System (Ozone production and sodium hypochlorite and liquid ammonium sulfate storage and feed)
   vi. Other Chemical Systems (Coagulant and caustic storage and feed)
d. SCADA and Security Requirements Workshops: Conduct up to two (2) 2-hour videoconference calls with the Owner to discuss SCADA and security requirements that will be included in the specifications.

2. Detailed design elements shall be developed using Autodesk AutoCAD, Autodesk Civil 3D, and Autodesk Revit BIM software for modeling the plant arrangement, coordinating with the Owner on the detailed mechanical, equipment, and structures, and for the development of plan sheets for bidding purposes. As such, some reviews will include 3D BIM Model reviews, and some will incorporate traditional 2D plan reviews. Proposed review workshops and milestones are listed below.

3. Plant Hydraulics:
   a. Existing Ray Roberts Conventional WTP Main Liquids Process: Develop a desktop hydraulic evaluation of the main liquids process flow from Raw Water Pump Station to the High Service Pump Station to validate the plant hydraulics and identify hydraulic bottlenecks. The flow scenarios for this hydraulic evaluation will be limited to the minimum, average, and maximum anticipated liquid process flows for the existing Ray Roberts Conventional WTP. This desktop evaluation will utilize FNI's standard Excel-based model.
   b. Ray Roberts Membrane WTP Main Liquids Process: Develop a desktop hydraulic evaluation of the main liquids process flow from the Membrane WTP Pre-Ozone Contactor to the High Service Pump Station to inform the design of the process units. The flow scenarios for this hydraulic evaluation will be limited to the minimum, average, and maximum anticipated liquid process flows from the proposed Ray Roberts Membrane WTP. In addition, the ultimate

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buildout capacity will be analyzed. This desktop evaluation will utilize FNI's standard Excel-based model.

c. Raw Water Supply and Flow Split Hydraulics: Develop a desktop hydraulic evaluation of the raw water supply from the Lake Ray Roberts Intake, through the Raw Water Pump Station and to the Ray Roberts WTP. This desktop evaluation will include proposed modifications and flow control scenarios to split the flow between the existing Ray Roberts Conventional WTP and the proposed Ray Roberts Membrane WTP. The flow scenarios for this hydraulic evaluation will include the minimum, average, and maximum anticipated liquid flows for the existing Ray Roberts Conventional WTP and the proposed Ray Roberts Membrane WTP as well as the ultimate buildout of the Ray Roberts Membrane WTP. This desktop evaluation will utilize FNI's standard Excel-based model.

d. Ray Roberts Membrane WTP Solids Process: Develop a desktop hydraulic evaluation of the solids flow from the proposed Flocculation/Sedimentation Basins to the proposed solids handling system. The flow scenarios for this hydraulic evaluation will include the minimum, average, and maximum anticipated solid process flows for the proposed Ray Roberts Membrane WTP and the ultimate buildout of the Ray Roberts Membrane WTP. This desktop evaluation will utilize FNI's standard Excel-based model. The solids associated with the Ray Roberts Conventional WTP are not included in this evaluation; however, they may be included as an Additional Service.

4. Prepare BIM models, drawings, specifications, Construction Contract Documents, designs, and layouts of improvements to be constructed for each milestone submittal described below and for the final construction contract documents. For the purposes of design planning, the alternative is assumed to include the major items listed in the narrative and as identified in the findings of the Preliminary Design Phase listed above. If a process other than the recommended alternative from the PDR is chosen, additional engineering effort required to incorporate the new alternative would be an Additional Service. The Construction Contract Documents listed below will be prepared for the Owner's and CMAR's use. Additional packages will be provided as an Additional Service.
   a. Construction Contract Document Package No. 1 – inclined plate settler and low-pressure membrane pilots and pilot support facilities.
      i. Technical Specifications: Division 01 through 47, as necessary to support the package components.
      ii. Drawings will be developed for the following project elements:
         1) Pilot Support Facilities.
   b. Construction Contract Document Package No. 2 – long lead-time equipment and electrical components which may include generators, medium voltage switchgear, pad-mounted and unit substation transformers, 480V switchboards, motor control centers and switchgear, VFDs associated with any pre-purchased pumps/motors.
      i. Technical Specifications: Division 01 through 47, as necessary to support the package components.
      ii. Drawings will be developed for the following project elements:
         1) Electrical one-line diagrams, elevations and control schematics.

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c. Construction Contract Document Package No. 3 – plant components not impacted by the low-pressure membrane pilot.
   i. Technical Specifications: Division 01 through 47, as necessary to support the package components.
   ii. Drawings will be developed for the following project elements:
      1) Raw Water Pump Station.
      2) Raw Water Pump Station Electrical Building.
      3) Membrane WTP Parallel Raw Water Pipeline.
      4) Membrane WTP Pre-Ozone Contactor.
      5) Membrane WTP Pumped Diffusion Vault/Rapid Mix.
      6) Membrane WTP Flow Split Structure.
      7) Membrane WTP Flocculation/Sedimentation Basin.
      8) Membrane WTP Sedimentation Basin Solids Pump Station.
      9) Membrane WTP Low-Pressure Membrane Feed Pump Station.
      10) Membrane WTP Intermediate Ozone Contactor.
      11) Membrane WTP Biologically Active Filters.
      12) Membrane WTP Biologically Active Filters Blower Building.
      13) Membrane WTP Transfer and Biologically Active Filter Backwash Pump Station.
      14) Existing Transfer Pump Station.
      15) Membrane WTP Transfer and Biologically Active Filter Backwash Pump Station Electrical Building.
      16) Clearwell No. 2.
      17) High Service Pump Station.
      18) High Service Pump Station Electrical Building.
      19) Membrane WTP Main Drain Sump Pump Station.
      20) Spent Backwash Equalization and Recycle Pump Station.
      21) Membrane WTP Solids Equalization/Thickener and Thickened Solids Pump Station.
      22) Membrane WTP Dewatering Building.
      23) Ozone Generation Building.
      24) Liquid Oxygen and Vaporizers.
      25) Membrane WTP Chemical Storage.
      26) Membrane WTP Chemical Feed.
      27) Disinfection Building (Sodium Hypochlorite and Liquid Ammonium Sulfate).
      28) Main Electrical Building No. 1.
      29) Main Electrical Building No. 2.
      30) Maintenance and Electrical Shop.
      31) Electrical, Instrumentation, and Control Systems.
      32) Yard Piping and Site Civil.

d. Construction Contract Document Package No. 4 – low-pressure membrane procurement documents.
   i. Technical Specifications: Division 01 through 47, as necessary to support the package components.

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ii. Drawings will be developed for the following project elements:
1) None.

e. Construction Contract Document Package No. 5 – plant components associated with the outcome of the low-pressure membrane pilot.
i. Technical Specifications: Division 01 through 47, as necessary to support the package components.
ii. Drawings will be developed for the following project elements:
1) Administration/Operation/Low-Pressure Membrane Building.
2) Electrical, Instrumentation, and Control Systems.
3) Yard Piping, Site Civil, and Landscaping at the Administration/Operations/ Membrane Building.

5. Conduct progress review and QC workshops with the Owner and CMAR during the Design Phase. FNI will submit relevant 3D models, drawings, specifications, and detailed data for each review workshop two weeks prior to the workshop dates to allow the Owner and CMAR adequate time for review and comment. These workshops will be conducted for each of the deliverable packages identified in this Scope of Services.
a. Level I Review - Initial Submittal (20-30% Design Level): This review is provided as part of the Preliminary Design Phase in this Scope of Services.
b. Conduct a Model Overview Workshop: The model review will include a single-day workshop to provide model reviews and/or printed isometric views of proposed major facility improvements. Owner shall receive a walk-through of the facility models, using designated model review software, including relevant treatment process, structural, electrical, architectural, and plumbing/HVAC elements. FNI will document and address Owner comments before developing detailed construction contract drawings.
c. Level II Review – Midpoint Submittal (50-60% Design Level): The Level II review will include a single-day workshop to provide a detailed review of both model spaces and conventional 2D construction contract drawings for the proposed design improvements and draft specifications. Level II review will also include various disciplinary cross-check reviews and QCs by FNI, constructability reviews by FNI, initial workshop discussions on maintenance of plant operations (MOPO) and construction sequencing, and development of a Draft MOPO and construction sequencing plan. FNI will document and address Owner comments before developing the Level III submittal.
d. Level III Review – Pre-Bid Submittal (80-90% Design Level): The Level III review will include a single-day workshop to provide a detailed review of all final design plans and specifications, final constructability reviews, final disciplinary cross-check reviews and disciplinary QC documentation. FNI will document and address Owner comments before developing final plans and specifications for construction.
e. Conduct a single-day MOPO and construction sequencing workshop at the 90% level to discuss the finalized sequence of construction and MOPO plans for the plant improvements.
f. All workshops will be conducted in the Owner's designated offices.

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6. Assist Owner and CMAR in developing procurement documents for the GMP packages. In coordination with the Owner and CMAR, assist in development of selection criteria and assist in development of bidding documents using the Owner's standard construction contract documents format.

7. Plans and specifications for any potentially occupied building will be submitted through the Owner's designated planning and development process for construction permitting. The Owner will coordinate obtaining all local government permits. FNI will support the Owner in preparing materials to obtain a permit as an Additional Service.

8. Advise Owner of the need for and recommend scope of subsurface investigations, special analysis, underwater exploration and mapping, etc., and the retention of special consultants beyond those identified in these Basic Services. The cost of such services shall be Additional Services and are not included in the Basic Services performed by FNI.

9. Furnish Owner, when requested, with the engineering data necessary for applications for routine permits required by local, state, and federal authorities.

10. Submit letters, notifications, drawings, specifications, design documentation and Construction Contract Documents to the applicable federal and state agency(-ies) for regulatory approval, where required.

11. Submit drawings for improvements to occupied buildings (and new facilities as required) to the appropriate regulatory agency (i.e., the Texas Department of Licensing and Regulation) for required TAS/ADA compliance rule reviews and associated approvals. The Owner will handle all required submittals for any other required review of building facilities.

12. This Project assumes the use of the Owner's standard construction contract (Division 00) documents including the Owner's General Conditions. FNI will use its technical standards for drawings and its technical specifications. FNI will coordinate with the Owner for any changes to specification standards in the Supplemental Conditions and Front-End Documents.

13. Furnish such information necessary to utility companies whose facilities may be affected, or whose services may be required for the Project.

14. The CMAR will prepare the opinion of probable construction cost for the Level II (Class 4) and Level III (Class 3) design completion levels. FNI will review these cost models and provide input to the Owner and CMAR.

15. Furnish the Owner one electronic PDF copy of drawings, specifications, and bid proposals for each submittal review and workshop above, for review and approval by Owner. Upon final approval by Owner, FNI will provide one electronic PDF copy for each final GMP package. Hard copies or providing Mylar sets is an Additional Service.

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F. Phase 3 – Bid and Procurement Services:

Bid phase services assume the Project delivered using CMAR with Competitive Sealed Proposal selection process to support the CMAR. Upon completion of the design services and approval of "final" drawings and specifications by Owner, FNI will proceed with the performance of services in this phase as follows:

1. Review the CMAR prepared Notice to Bidders that the CMAR will distribute to prospective Contractors and vendors, and to selected plan rooms, using the Owner's standard bid process. Provide a copy of the notice to bidders for Owner to use in notifying construction news publications and publishing the appropriate legal notice. The cost for publications shall be paid by the CMAR.

2. Submit electronic copies of plans, specifications, and bidding documents to the Owner. The Owner/CMAR will publish the documents to an online bidding service. Prospective bidders may download and print documents from an online bidding service, which will maintain plan holder list and post addenda. FNI posting documents to CIVCAST or other online service is an Additional Service.

3. Assist Owner and CMAR by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders, if necessary, following the Owner's standard bid process.

4. Assist the Owner and CMAR in conducting up to four (4) separate pre-bid conferences (one per package) for the construction project and coordinate responses to questions with Owner. Responses to the pre-bid conference questions will be in the form of addenda issued after the conference. Attend the tour of the project site after the pre-bid conference.

5. In conjunction with the CMAR, develop an example "Construction Sequence" presentation, demonstrating to potential Contractors possible methodologies for sequencing construction events. FNI will also provide special procedures and construction constraints, clearly identified in the plans, specifications and presentation, to define limitations for the CMAR and Contractor to take any unit process or plant facility out of service for construction. Present the sample construction sequence at the pre-bid conferences.

6. The Owner and CMAR will evaluate the proposals for compliance with the Contract Documents.

7. The Owner and CMAR will receive, open, and evaluate competitive sealed proposals based on the published bid/proposer evaluation criteria at the appointed time. The Owner and CMAR will recommend acceptance of the most responsible offeror or rejection of the proposal. FNI will review the technical portion of the proposal associated with GMP Package Nos. 1 and 4.

8. Assist Owner and CMAR in the preparation of "issued for construction" Construction Documents. "Issued for construction" drawings and specifications shall incorporate any changes from addenda

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into the final electronic documents and the documents shall be reprinted with the appropriate changes notated and clouded per FNI drawing standards.

9. Furnish the Owner and CMAR one electronic PDF copy of the full-sized drawings and conformed technical specifications for construction. Hard copy sets of "issued for construction" documents can be provided as an Additional Service.

G. Phase 4 – Construction Contract Administration Services:

Upon completion of the bid/negotiation phase services, FNI will proceed with the construction phase services as described below. It is understood that FNI does not guarantee the CMAR's or Contractor's performance, nor is FNI responsible for supervision of the CMAR or Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by the CMAR or Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the CMAR, Contractor or any Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

1. Assist Owner and CMAR in conducting up to two (2) preconstruction conference(s) with the selected CMAR and Contractor(s), review construction schedules prepared by the CMAR pursuant to the requirements of the construction contract and proposed construction. These preconstruction conferences are associated with GMP Package No. 3 (plant components not impacted by the low-pressure membrane pilot) and GMP Package No. 5 (plant components associated with the outcome of the low-pressure membrane pilot). Preconstruction conferences beyond the number listed is an Additional Service.

2. Participate in up to thirty-eight (38) monthly construction progress meetings with the Owner and CMAR. Assist Owner and CMAR in establishing an agenda for these meetings, facilitate meeting discussion and provide minutes for each meeting for Owner and CMAR comment. A site visit to the construction site (as distinguished from the continuous services of a resident project representative) will be conducted during these monthly construction progress meetings to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. In this effort, FNI will report any observed deficiencies to the Owner. Meetings and visits to the site in excess of the specified number are an Additional Service.

3. Establish communication procedures with the Owner and CMAR. Submit up to thirty-eight (38) monthly reports of construction progress. Reports will describe construction progress in general terms and summarize project costs, payments made, construction schedule, and pending and approved contract modifications. Aerial photography will be provided, when available, by the Owner or CMAR for use by FNI in project updates. Aerial photography may be provided by FNI as an Additional Service.

4. Establish and maintain a project documentation system using the Owner's Procore project document system, consistent with the requirements of the construction contract documents.

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Monitor the processing of CMAR's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process. Review and respond to CMAR's submittals, including requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the construction contract documents for the Project. Monitor the progress of the CMAR in sending and processing submittals to see that documentation is being processed in accordance with schedules.

5. Based on FNI's observations as an experienced and qualified design professional and review of the payment requests and supporting documentation submitted by CMAR, determine the amount that FNI recommends CMAR be paid on monthly and final estimates, pursuant to the General Conditions of the Construction Contract. Project assumes thirty-eight (38) monthly pay requests will be processed by FNI. The review of more than the stated pay requests will be an Additional Service.

6. Make up to twenty (20) additional visits to the site, non-concurrent with the monthly site visits and meetings, to provide additional specialty observation or inspection as may be required for the Project. Visits to the site in excess of the specified number are an Additional Service.

7. Interpret the drawings and specifications for the Owner and CMAR. Investigations, analyses, and studies requested by the CMAR and approved by the Owner, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an Additional Service.

8. Review up to 300 quality-related documents provided by the CMAR such as test reports, equipment installation reports or other documentation required by the Construction Contract Documents. The number of quality documents identified is estimated by FNI based on performance on similar projects and the number of documents identified in the plans and specifications. Review of CMAR submittals in excess of this amount are an Additional Service.

9. Provide for review of CMAR's requests for information (RFIs). Maintain document control systems, review CMAR RFIs and prepare responses in accordance with the Contract Documents. Provide interpretation and communicate engineering intent if information is not explicitly addressed in the Contract Documents. It is anticipated that FNI will review and respond to up to a total of 250 RFIs. Review of RFIs in excess of the specified number is an Additional Service.

10. Provide for review of CMAR submittals including shop drawings, operation and maintenance manuals and other documentation required by the construction contract documents. It is anticipated that FNI will review and respond to up to a total of 900 submittals and resubmittals. Review of submittals in excess of the specified number is an Additional Service.

11. Establish procedures for administering constructive changes to the construction contracts. Process contract modifications and negotiate with the CMAR on behalf of the Owner to determine the cost and time impacts of these changes. Prepare change order documentation for approved

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changes for execution by the Owner. Documentation of field orders, where completion schedule or cost to Owner is not impacted, will also be prepared. Investigations, analyses, studies, or designs for substitutions of equipment or materials, corrections of defective or deficient work of the CMAR or other deviations from the construction contract documents requested by the CMAR and approved by the Owner are an Additional Service. Substitutions of materials or equipment or design modifications requested by the Owner are an Additional Service. FNI will process up to twenty (20) CMAR cost proposals (CPs), twenty (20) requests for cost proposal (RCPs), five (5) change orders and five (5) field orders during the construction phase. Providing these services to review or evaluate construction CMAR's claim(s) or Owner-initiated changes, supported by causes not within the control of FNI, above these amounts are an Additional Service.

12. The CMAR will provide construction materials testing for purposes of Owner quality control during construction. The CMAR must coordinate the work of testing laboratories and inspection bureaus required for the testing or inspection of materials, witnessed tests, factory testing, etc. for quality control of the Project. Materials testing furnished by FNI is an Additional Service.

13. Assist in the transfer of and acceptance by the construction CMAR of any Owner-furnished equipment or materials.

14. Conduct, in company with Owner's representative, up to two (2) substantial completion walkthroughs, one each for GMP Packages No. 3 and No. 5, of the Project to establish final punchlists for project completion, conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the CMAR before the recommendation of final payment. Assist the Owner in obtaining legal releases, permits, warranties, spare parts, and keys from the CMAR. Review and comment on the certificate of completion and the recommendation for final payment to the CMAR. Visiting the site to review completed work for more than two (2) trips is an Additional Service. Visiting the site to conduct a final completion walkthrough is an Additional Service.

15. Revise the construction drawings in accordance with the information furnished by the CMAR reflecting changes in the Project made during construction. One (1) electronic copy in PDF format of "Record Drawings" shall be provided by FNI to the Owner. Hard copies or providing Mylar sets is an Additional Service.

H. Phase 5 – Post Construction Phase Services:

1. Provide an updated operations and maintenance (O&M) manual for the treatment plant to reflect changes in the operation of the plant. The O&M manual shall be consistent with current state regulatory requirements. The O&M manual will include all equipment operations of the plant, both existing and new equipment, and related unit process operations.
2. Review Workshops and Meetings:
   a. O&M Manual Kickoff Workshop with Owner: Conduct one (1) videoconference with the Owner to review the O&M manual table of contents.

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b. O&M Manual Review Workshop with Owner: Conduct one (1) workshop with the Owner to review the O&M manual sections.

3. Deliverables:
   a. O&M Manual Table of Contents: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.
   b. O&M Manual: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

ARTICLE II – SPECIAL SERVICES: FNI shall render the following Special Services for the development of the Project:

A. Project Management, Quality Control, and Quality Assurance Special Services:

1. No special services are identified.

B. Opinions of Probable Construction Cost Special Services:

1. No special services are identified.

C. Phase 1 – Preliminary Design Special Services:

1. Topographic Survey, LiDAR Survey, and 3D Photo Documentation (Photogrammetry)
   a. Topographic Survey: Topographic survey services will be coordinated by FNI and provided by a surveyor as a consultant to FNI.
      i. The Ray Roberts Raw Water Pump Station, raw water pipeline easement, and Ray Roberts Water Treatment Plant area cross sections and/or mapping will be collected generally at 25-foot intervals and at all breaks in grade to produce 1-foot interval contours to support the design of the Project.
      ii. All trees will be tagged in the field. The tree tag identification number and common name will be noted on the survey. Tree identification by a licensed arborist is an Additional Service.
      iii. Boundary and Easement Survey: Research existing easements and prepare the following easement meets-and-bounds survey documents.
         1) Raw Water Pump Station (U.S. Army Corps of Engineers) – existing permanent easement.
         2) Raw Water Pump Station (U.S. Army Corps of Engineers) – proposed temporary construction easement.
         3) Raw Water Pipeline (U.S. Army Corps of Engineers) – existing permanent easement.
         4) Raw Water Pipeline (U.S. Army Corps of Engineers) – proposed temporary construction easement.
         5) Electrical Utility – proposed permanent easement.
      iv. Orthorectified imagery, captured using UAV drone technology, will be used to provide an aerial background to the deliverable. Photogrammetry, derived from the orthorectified imagery, will be utilized to capture mapping and improvements as applicable.

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v. Terrestrial based 3D laser scanning will be utilized to capture mapping and improvements on existing plant structures.
vi. In addition, the following weir elevations will be measured:
1) Flow Splitter Box.
2) Flocculation/Sedimentation Basin Nos. 1 and 2.
vii. The surveyor will conduct additional separate site visits to collect the following items:
1) CMAR provided subsurface utility exploration excavations (locate points of inflection along the raw water pipeline, tie in and connection points, and verification of buried utilities).
2) Soil boring markers or boring locations.

b. LiDAR Survey: LiDAR survey services will be coordinated by FNI and provided by FNI.
i. Ray Roberts Raw Water Pump Station
ii. Ozone Generation Building
iii. Liquid Oxygen
iv. Ray Roberts High Service Pump Station
v. Main Electrical Building

c. 3D Photo Documentation (Photogrammetry): Capture 3D photo documentation (Matterport) of the interior and exterior façade of the Owner facilities listed below:
i. Ray Roberts Raw Water Pump Station
ii. Ozone Generation Building
iii. Liquid Oxygen Storage Area
iv. Ray Roberts High Service Pump Station
v. Main Electrical Building

2. Easement Support
a. United States Army Corps of Engineers
i. The Raw Water Pump Station and raw water pipeline are in an existing easement provided to the Owner by the United States Army Corps of Engineers (USACE). The Project improvements impact the easement document. The easement was modified in the *Lake Lewisville Phase II Improvements* to include the Raw Water Pump Station Chemical Building. Based on available information, this scope assumes that the existing permanent easement will support an expansion of the Raw Water Pump Station and a parallel raw water pipeline. A temporary construction easement will be required for the Raw Water Pump Station expansion and the raw water pipeline.
ii. The Owner will provide FNI with the current USACE easement document for review.
iii. FNI will support the Owner by providing a meets-and-bounds survey of the proposed temporary construction easements. In addition to this information, FNI will participate in the workshops and meetings outlined below.
iv. Any other easement requirements from the USACE will be considered an Additional Service.

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v. Review Workshop and Meetings:
   1) United States Army Corps of Engineers Lake Management and Owner Coordination Meetings: Prepare meeting agenda and notes and attend up to two (2) in-person meetings with the USACE Lake Ray Roberts Manager and the Owner.
   2) United States Army Corps of Engineers and Owner Coordination Meetings: Prepare meeting agenda and notes and attend up to four (4) videoconferences with the USACE and the Owner.
   3) United States Army Corps of Engineers and Owner Temporary Easement Document Review Workshop: Prepare meeting agenda and notes and attend one (1) review workshop with the Owner.

vi. Deliverables:
   1) United States Army Corps of Engineers and City of Denton Temporary Easement Meets-and-Bounds Document: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

3. Provide a Geotechnical Investigation and Geotechnical Engineering Report of the plant site required for the design phase.
   a. Geotechnical Exploration
      i. Select appropriate locations for exploratory borings within the vicinity of the following proposed improvements:
         1) Raw Water Pump Station (expansion).
         2) Raw Water Pump Station Electrical Building (expansion).
         3) Parallel Raw Water Pipeline.
         4) Conventional WTP Flow Control Valve Vault, Conventional WTP Flow Meter Vault, Membrane WTP Flow Control Valve Vault, and Membrane WTP Flow Meter Vault.
         5) Membrane WTP Pre-Ozone Contactor.
         6) Membrane WTP Chemical Feed
         7) Membrane WTP Flow Split Structure.
         8) Membrane WTP Flocculation/Sedimentation Basins and Membrane Feed Pump Station.
         9) Membrane WTP Administration/Operations/Membrane Building.
         10) Membrane WTP Intermediate Ozone Contactor.
         11) Membrane WTP Biologically Active Filters.
         12) Washwater Reclamation Basin No. 2.
         13) Membrane WTP Transfer/Backwash Pump Station.
         14) Membrane WTP Transfer/Backwash Pump Station Electrical Building.
         15) Membrane WTP Ammonia Injection Vault.
         16) Clearwell No. 2.
         17) High Service Pump Station VFD Building (expansion).
         18) Main Electrical Building No. 2.
      ii. Coordinate the boring locations with the Owner and notify Texas 811 to locate existing underground utilities before the commencement of the field exploration activities.

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iii. FNI will subcontract with a drilling contractor to drill the borings identified below at the selected locations. Samples will be collected intermittently using continuous flight auger and either tube samples or a split-spoon sampler in conjunction with the Standard Penetration Test (SPT), as appropriate for the material. Rock and rock-like materials will be sampled using an NX core barrel and/or tested in-situ using a TxDOT Cone Penetration Test (CPT), as appropriate for the material. At completion, the boreholes will be backfilled with auger cuttings to the ground surface. If boreholes are located within areas of pavement or sidewalk, borings will be backfilled with a similar material to match the existing conditions. The following borings will be conducted:

1) Raw Water Pump Station (expansion): 2.
2) Raw Water Pump Station Electrical Building (expansion): 1.
3) Parallel Raw Water Pipeline: 2.
4) Conventional WTP Flow Control Valve Vault, Conventional WTP Flow Meter Vault, Membrane WTP Flow Control Valve Vault, and Membrane WTP Flow Meter Vault: 2.
5) Membrane WTP Pre-Ozone Contactor: 1.
6) Membrane WTP Chemical Feed: 1.
7) Membrane WTP Flow Split Structure: 1.
8) Membrane WTP Flocculation/Sedimentation Basins and Membrane Feed Pump Station: 1.
9) Membrane WTP Administration/Operations/Membrane Building: 2.
10) Membrane WTP Intermediate Ozone Contactor: 1.
11) Membrane WTP Biologically Active Filters: 3.
12) Washwater Reclamation Basin No. 2: 2.
13) Membrane WTP Transfer/Backwash Pump Station: 2.
14) Membrane WTP Transfer/Backwash Pump Station Electrical Building: 1.
15) Clearwell No. 2: 5.
16) High Service Pump Station VFD Building (expansion): 1.
17) Main Electrical Building No. 2: 2.
18) Two (2) standpipe piezometers will be installed to enable subsequent groundwater measurements. The Owner will take periodic groundwater measurements, record, and forward the information to FNI.

iv. FNI will provide an engineer or geologist, experienced with logging borings, to direct the drilling, log the borings, and handle the samples. Visual classification of the subsurface stratigraphy shall be provided according to the Unified Soil Classification System (USCS).

b. Laboratory Testing

i. Testing shall be performed on soil samples obtained from the borings. The laboratory testing will be focused upon soil classification, subsurface moisture profile, and swell tests, as well as soil strengths for supporting the various structures. FNI will select samples from the exploratory borings for laboratory testing, assign tests, and review the test results. A geotechnical testing subcontractor will perform the testing.

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ii. Laboratory tests will be assigned based on the specific subsurface materials encountered during exploration. Test type and quantity may vary, but are expected to include:
   1) Classification test (liquid and plastic limits and percent pass of the No. 200 sieve or gradation);
   2) Moisture content;
   3) Dry unit weight;
   4) Shear strength testing;
   5) Unconfined compression testing;
   6) One-dimensional swell (restrained) testing; and
   7) Consolidation testing.

c. Engineering Analysis
   i. FNI will prepare a Geotechnical Report of the investigation that will include:
      1) Plan of borings illustrating the approximate location of each boring and scale to which the drawing was made.
      2) A log of each boring indicating the boring number, depth of each stratum, soil classification and description, and groundwater/seepage observations recorded during drilling.
      3) Summary of laboratory results.
      4) General discussion of the site geology.
      5) Discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design.
      6) Foundation and site preparation recommendations for the proposed Project components.
      7) General discussion of expected construction related issues.
      8) Earthwork related recommendations for use during development of the plans and specifications.

D. Construction Management-at-Risk (CMAR) Coordination Special Services.

1. No special services are identified.

E. Phase 2 – Final Design Special Services:

1. Council Presentations and Public Meetings: Participate in up to two (2) project update presentations to council.

F. Phase 3 – Bid and Procurement Special Services:

1. No special services are identified.

G. Phase 4 – Construction Contract Administration Special Services:

1. Resident Project Representative (RPR)
   a. FNI will provide one (1) Resident Project Representative (RPR) for the Project to act as Owner's on-site representative during the Construction Phase.

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b. The RPR will communicate and coordinate with the Owner on a regular basis to carry out the daily services being provided and will coordinate with the Specialty Observations staff.
c. In performing these services, it is understood that FNI does not guarantee the CMAR's performance, nor is FNI responsible for the supervision of the CMAR's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the CMAR, or any safety precautions and programs relating in any way to the condition of the premises, the work of the CMAR or any Contractor or Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.
d. Resident Project Representative Services:
    i. The duties, responsibilities, and the limitations of authority of the Resident Project Representative, and designated assistants, are as follows .
        1) Resident Project Representative is Engineer's agent at the site, will act as directed by and under the supervision of the Engineer, and will confer with the Engineer regarding Resident Project Representative's actions. Resident Project Representative's dealings in matters pertaining to the on-site Work shall in general be with the Engineer and CMAR, keeping Owner advised as necessary. Resident Project Representative's dealings with Contractors and Subcontractors shall only be through or with full knowledge and approval of the CMAR. Resident Project Representative shall generally communicate with the Owner with the knowledge of and under the direction of the Engineer.
        2) The Owner agrees to include provisions in the General Conditions that require the CMAR to include FNI: (1) as an additional insured and in any waiver of subrogation rights with respect to such liability insurance purchased and maintained by the CMAR for the Project (except workers' compensation and professional liability policies); and (2) as an indemnified party in the CMAR's indemnification provisions where the Owner is named as an indemnified party.
    ii. Duties and Responsibilities of Resident Project Representative:
        1) Schedules: Review the progress schedule, schedule of Shop Drawing submittals, and schedules of values prepared by the CMAR and consult with the Engineer concerning acceptability.
        2) Conferences and Meetings: Attend meetings with the CMAR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
        3) Liaison:
            a. Serve as the Engineer's liaison with the CMAR, working principally through CMAR's superintendent and assist in understanding the intent of Contract Documents; and assist the Engineer in coordinating with the Owner's liaison and CMAR when CMAR's operations affect Owner's on-site operations.
            b. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

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4) Shop Drawings and Samples:
   a. Record date of receipt of Shop Drawings and Samples.
   b. Receive Samples which are furnished at the Site by the CMAR, and notify the Engineer of availability of Samples for examination.
   c. Advise the Engineer and CMAR of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by the Engineer.
5) Review of Work, Rejection of Defective Work, Inspections and Tests:
   a. Conduct on-site observations of the Work in progress to determine if the Work is in general proceeding in accordance with the Contract Documents.
   b. Report to the Engineer whenever Resident Project Representative believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise the Engineer of Work the Resident Project Representative believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
   c. Verify that tests, equipment, and systems start-up and operating and maintenance training are conducted in the presence of appropriate personnel, and the CMAR maintains adequate records thereof; and observe record and report to the Engineer appropriate details relative to the test procedures and start-ups.
   d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the Engineer.
6) Interpretation of Contract Documents: Report to the Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to the CMAR clarifications and interpretations as issued by the Engineer.
7) Request for Revisions: Consider and evaluate the CMAR's suggestions for revisions to Drawings or Specifications and report with Resident Project Representative's recommendations to the Engineer. Transmit to the CMAR in writing decisions as issued by the Engineer.
8) Records:
   a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents, including all Work Change Directives, Addenda, Change Orders, Field Orders, Written Amendments, the Engineer's clarifications and interpretations of the Contract Documents, progress reports, submittals and correspondence received from and delivered to the CMAR and other Project related documents.

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9) Reports:
   a. Furnish to the Engineer periodic reports as required of progress of the work and of CMAR's compliance with the progress schedule and schedule of Shop Drawings and Sample submittals.
   b. Consult with the Engineer in advance of scheduled major tests, inspections, or start of important phases of the Work.
   c. Draft proposed Written Amendments, Change Orders, and Work Change Directives, obtaining backup material from the CMAR and recommend to the Engineer Written Amendments, Change Orders, Work Change Directives, and Field Orders.
   d. Report immediately to the Engineer and the Owner the occurrence of any accident.
10) Payment Requests: Review Applications for Payment with the CMAR for compliance with the established procedure for their submission and forward with recommendations to the Owner, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment at the Site but not incorporated in the Work.
11) Certificates, Maintenance, and Operation Manuals: During the course of the Work, verify that certificates, maintenance, and operation manuals and other data required to be assembled and furnished by the CMAR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the Engineer for review and forwarding to the Owner prior to final payment for the Work.
12) Equipment Training:
   a. RPR will review the equipment training plans (agendas) for conformance with the Construction Contract.
   b. RPR will monitor the status of equipment training to verify completion prior to startup of the associated equipment/processes.
   c. RPR will monitor the status of equipment O&M manuals to verify completion prior to startup of the associated equipment/processes.
13) Completion:
   a. Before the Engineer issues a Certificate of Substantial Completion, submit to the CMAR a list of observed items requiring completion or correction.
   b. Observe whether the CMAR has performed inspections required by laws or regulations, ordinances, codes or orders applicable to the Work, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
   c. Conduct a final inspection in the company of the Engineer, Owner, and CMAR and prepare a final list of items to be completed or corrected.
   d. Observe whether all items on the final list have been completed or corrected and make recommendations to the Engineer concerning acceptance.

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iii. Limitations of Authority of Resident Project Representative:
   1) The RPR shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by the Engineer.
   2) The RPR shall not exceed limitations of the Engineer's authority as set forth in Agreement or the Contract Documents.
   3) The RPR shall not undertake any of the responsibilities of the CMAR, Subcontractor, Suppliers, or CMAR's superintendent.
   4) The RPR shall not advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
   5) The RPR shall not advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the Work or any activities or operations of the Owner or CMAR.
   6) The RPR shall not accept shop drawing or sample submittals from anyone other than the CMAR.
   7) The RPR shall not participate in specialized field or laboratory tests or inspections conducted by others, except as specifically authorized by the Engineer.

e. RPR services are estimated to average 40 hours per week over thirty-four (34) months of the estimated thirty-eight (38)-month duration of construction. If the CMAR is unable to complete the Project in the established duration, and additional RPR services are required, these services shall be included as an Additional Service to the Agreement.

2. Specialty Construction Electrical Inspection:
   a. FNI will provide one (1) specialty construction electrical inspector focusing on electrical equipment for the duration outlined below.
   b. The specialty construction electrical inspector will communicate and coordinate with the RPR on a regular basis to carry out the daily services being provided.
   c. In performing these services, it is understood that FNI does not guarantee the CMAR's performance, nor is FNI responsible for the supervision of the CMAR's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the CMAR, or any safety precautions and programs relating in any way to the condition of the premises, the work of the CMAR or any Contractor or Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.
   d. Specialty Construction Electrical Inspection Services: The primary roles and responsibilities of the specialty construction electrical inspector include the following:
      i. Serve as point of contact for the RPR, with primary responsibility for construction quality assurance especially related to electrical equipment.
      ii. Inspect construction work daily to determine that construction is in conformance with the Construction Contract Documents.

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iii. Prepare daily construction reports (DCRs) documenting construction activities, number of construction staff on site, equipment stages and/or operating on site, visits to the site, discussions of any field issues with any parties, and any other information pertinent to or potentially impacting the Project.
iv. Assist the RPR and Owner staff when needed to coordinate construction activities that may impact the Owner's ongoing operations.
v. Verify that the CMAR testing laboratories are onsite and conducting the necessary testing per the Construction Contract Documents.
vi. Verify quantities of work in place and assist the RPR in the review of payment request and supporting documentation.
vii. Attend periodic project coordination meetings (bi-weekly or monthly) when requested by the RPR to provide updates and inputs on construction progress and issues as appropriate.
viii. Attend other project related construction meetings as needed.
ix. Assist the RPR in preparation of notices of defective work. Assist in coordinating the resolution of non-compliant work with the CMAR. Document and follow up on non-conforming work to determine that acceptable correction of defects is accomplished.
x. Maintain a working set of record documents. Determine that measurements required for record documents are taken before work is covered.
xi. Take photographs to document differing site conditions, change order and claim items, and any special or unique conditions as they arise.

e. The specialty construction electrical inspection services are estimated to average 40 hours per week for a duration of ten (10) months. If the CMAR is unable to complete the Project within the established duration, and additional services are required, these services shall be included as an Additional Service to the Agreement.

3. Major Equipment Factory Witness Testing.
   a. The specifications for major pieces of equipment will be written such that the Owner may elect to witness the factory performance test of major equipment. The specifications will be written with the requirement that all travel expenses will be paid by the manufacturer for the Owner and FNI. These specifications will also be written such that FNI's labor and expenses incurred for witness testing following unacceptable tests must be paid for by the manufacturer.
   b. Services of the identified engineer, including travel to the test location, witnessing the performance testing, providing recommendations to the Owner regarding acceptance, and providing a technical memorandum summarizing the testing. The following factory performance tests for major equipment are anticipated:
      i. Motors (RWPS x 2, HSPS x 2): 2 Trips.
      ii. Vertical Turbine Pumps (RWPS x 2, HSPS x 2): 1 Trip.
      iii. Adjustable Frequency Drives (RWPS x 5, HSPS x 2): 1 Trips.
      iv. Generator: 1 Trip.
      v. Medium Voltage Switchgear: 1 Trips.
      vi. Programable Logic Controllers and SCADA/HMI: 5 Trips.

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4. Provide Startup and Commissioning Services.
    a. Pre-Commissioning
        i. Pre-Commissioning Planning
            1) Pre-Commissioning Workshops. FNI will lead four (4) 2-hour pre-commissioning workshops with the Project stakeholders to advance the commissioning planning efforts. Workshops will be held monthly six (6) months prior to the scheduled commissioning.
            2) The CMAR will develop the Commissioning Plan for FNI review. The Commissioning Plan will consider equipment-specific conditions and constraints. The Commissioning Plan should include: Objective, Necessary Activities, Sequence of Activities, Roles and Responsibilities, Risks and Mitigation Strategies, and Safety Considerations.
            3) The CMAR will split the Project into manageable Functional and Performance Test Packages (FAPTPs) and develop these packages. FAPTPs will include: Name and tag number of all equipment to be started up concurrently or in the same package; All pre-startup requirements including responsibilities for the CMAR, Owner, and FNI; Requirements for process mechanical, electrical, instrumentation, and automatic control needs; Detailed description of step-by-step procedures for startup, as well sequence of startup for equipment. The scope of services is based on six FAPTPs. The FAPTPs listed are assumed and FAPTPs beyond those listed are an Additional Service. The CMAR will submital all of the identified FAPTPs in one (1) submittal for review by FNI. Review of more than one (1) submittal is an Additional Service.
                a. FAPTP No. 1: Raw Water Pump Station, Pre-ozone Contactor, Pumped Diffusion Vault/ Rapid Mix, Splitter Box, Flocculation/Sedimentation.
                b. FAPTP No. 2: Low-pressure Membrane Feed Pump Station, Membrane System, and Membrane Support Systems.
                c. FAPTP No. 3: Intermediate Ozone Contactor, Biologically Active Filters, Transfer and Backwash Pump Station, Filter Air Scour Blower.
                d. FAPTP No. 4: High Service Pump Station, Electrical Distribution, Generators, SCADA.
                e. FAPTP No. 5: Ozone Generation, Chemical Storage and Feed, Washwater Recovery, Main Drain Sump.
                f. FAPTP No. 6: Solids Handling.
            4) Scheduling Support. The CMAR's Project Team will develop a baseline Training Schedule for FNI's review. The Training Schedule will identify training activities.
        ii. System/Process Training. Based on the Draft System O&M Manual, FNI will provide system training for the Project. FNI will prepare an agenda for the training workshop. FNI will prepare a slide deck to accompany the training session. A copy of the slide deck will be provided to the Owner in PDF format. Each training session will be conducted over two (2) four (4)-hour periods. Up to two (2) training sessions will be conducted to provide the Owner with schedule flexibility. This training will include the topics outlined below, additional topics may be included as an Additional Service:

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1) Overall process diagram and process review.
2) Overview of major equipment and vendor furnished operation and maintenance manuals.
3) Membrane Overview: general operations, terminology, data analysis and trending.
4) Sludge removal optimization.
5) Solids Dewatering Overview: general operations, terminology, data analysis and trending.

iii. Pre-Commissioning Field Testing. FNI will monitor the status of pre-commissioning field testing/documentation for each FAPTP to verify conformance with Construction Contract Documents and completion prior to startup of the associated equipment/processes.

b. Commissioning

i. Commissioning Administration

1) Commissioning Coordination – The Owner's construction staff and FNI's resident project representative will mobilize to the Project site to oversee the CMAR's implementation of the FAPTPs.
2) Recurring status meetings – FNI will participate in four (4) 2-hour commissioning team meetings to monitor the progress and coordinate the near-term upcoming commissioning activities.
3) The OWNER, FNI's RPR, and CMAR will provide updates at each of the construction progress meetings.

ii. Commissioning Field Testing

1) The following FNI staff will be on-site as outlined below for each FAPTP to witness the CMAR's execution of commissioning field testing.

a. FAPTP No. 1:

(1).	Treatment Process Lead:	5 days
(2).	Pump Station Lead:	2 days
(3).	Electrical Treatment Lead:	0 days
(4).	Electric Pump Station Lead:	7 days
(5).	Instrumentation and Control Lead:	5 days

b. FAPTP No: 2:

(1).	Treatment Process Lead:	5 days
(2).	Pump Station Lead:	0 days
(3).	Electrical Treatment Lead:	2 days
(4).	Electric Pump Station Lead:	0 days
(5).	Instrumentation and Control Lead:	8 days

c. FAPTP No. 3:

(1).	Treatment Process Lead:	5 days
(2).	Pump Station Lead:	0 days
(3).	Electrical Treatment Lead:	2 days
(4).	Electric Pump Station Lead:	7 days
(5).	Instrumentation and Control Lead:	2 days

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d. FAPTP No. 4:
   (1). Treatment Process Lead: 5 days
   (2). Pump Station Lead: 2 days
   (3). Electrical Treatment Lead: 0 days
   (4). Electric Pump Station Lead: 9 days
   (5). Instrumentation and Control Lead: 3 days

e. FAPTP No. 5:
   (1). Treatment Process Lead: 5 days
   (2). Pump Station Lead: 0 days
   (3). Electrical Treatment Lead: 0 days
   (4). Electric Pump Station Lead: 0 days
   (5). Instrumentation and Control Lead: 0 days

f. FAPTP No. 6:
   (1). Treatment Process Lead: 5 days
   (2). Pump Station Lead: 0 days
   (3). Electrical Treatment Lead: 0 days
   (4). Electric Pump Station Lead: 0 days
   (5). Instrumentation and Control Lead: 0 days

2) The CMAR will submit commissioning documentation for each FAPTP. FNI will review each commissioning field testing submittal for conformance with the Construction Contract Documents.
3) FNI will monitor the status of each FAPTP to verify completion of commissioning field testing.

H. Post Construction Special Services

1. No special services are identified.

I. <u>Other Services Recommended Outside of a Traditional CMAR Type Project:</u>

1. Treatment Process Laboratory Special Services:
   a. Coagulant determination jar tests.
      i. FNI will conduct bench-scale jar testing of coagulants with polyaluminum chloride and aluminum chlorohydrate. Up to six (6) doses of each coagulant will be tested for a total of twelve (12) tests. The jar tests will be conducted on ozonated water from the RRWTP Pre-Ozone Contactor.
      ii. The ozonated water will be delivered or shipped to the FNI laboratory by FNI.
      iii. Chemical metal salts for testing will be provided by or purchased by FNI.
      iv. Turbidity and UV_{254} will be measured in the FNI laboratory to determine the coagulant for the pilot study.
      v. Site Visits:
         1) FNI will conduct one (1) site visit to obtain the necessary water sample for the jar testing.
      vi. Review Workshops and Meetings:
         1) None.

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vii. Deliverables:
1) None.

2. Inclined Plate Settler and Low-Pressure Membrane Pilot:
   a. Pilot Protocol Preparation
      i. FNI will prepare a pilot protocol that will include the necessary operational goals, sampling and testing plan, schedule, and aspects required by the TCEQ. As part of the development of the pilot protocol, FNI will coordinate with the TCEQ and pilot vendors to verify that the pilot protocol meets the Project requirements and goals. FNI will review the pilot protocol with the Owner and submit the protocol to the TCEQ for approval.
      ii. The pilot protocol will be based on a single season pilot following this approximate schedule:
         1) Initiate Pilot Testing: 7 days.
         2) Stage 1 – Optimization of Pilot: 60 days.
         3) Clean-in-Place: 1 day.
         4) Stage 2 – Demonstration of Continued and Consistent Performance: 45 days.
         5) Clean-in-Place: 1 day.
         6) Stage 3 – Demonstration of Specific Flux Recovery Following a Clean-in-Place: 10 days.
      iii. Review Workshops and Meetings:
         1) Pilot Protocol Review Workshop with Owner. Prepare meeting agenda, attend, and prepare meeting notes for one (1) pilot protocol review meeting with the Owner.
         2) Pilot Protocol Review Workshop with TCEQ. Prepare meeting agenda, attend, and prepare meeting notes for one (1) pilot protocol review meeting with the Owner and TCEQ.
      iv. Deliverables:
         1) Pilot Protocol. Submit one (1) electronic PDF draft copy to the Owner for review and one (1) electronic PDF final copy to the Owner upon incorporation of the review comments.
   b. Pilot Support Facilities
      i. Design Pilot Facilities: FNI will provide detailed design to support the inclined plate settler and low-pressure membrane pilots. These facilities will be temporary and only to support the efforts of the pilot study. The design elements will include process mechanical, chemical storage/feed, structural, and electrical components.
      ii. Advertisement/Proposal Phase Services for the Pilot Facilities: FNI will support the Owner and CMAR through the advertisement and proposal phase for the construction of the pilot facilities.
      iii. Construction Phase (General Representation) Services for the Pilot Facilities: FNI will support the Owner and CMAR through the construction phase for the construction of the pilot facilities. The CMAR will accommodate the construction of these components.
      iv. Review Workshops and Meetings:
         1) Pilot Support Facilities Design Review Workshop with Owner. Prepare meeting agenda, attend, and prepare notes for one (1) pilot support facilities design review workshop with the Owner.

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v. Deliverables:
   1) Pilot Support Facilities Specifications and Drawings. Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

c. Pilot Procurement/Lease Package
   i. Pilot Procurement/Lease Package Development: FNI will support the Owner's development of the pilot unit procurement/lease package. The pilot units will include inclined plate settler and low-pressure membrane systems.
   ii. Coordinate with Inclined Plate Settler Vendors: Based on the total flow needs of the low-pressure membrane pilots, engage with up to two (2) inclined plate settler vendors to provide pilot unit(s).
   iii. Coordinate with Low-Pressure Membrane Vendors: Based on discussions with the Owner, coordinate with up to two (2) low-pressure (microfiltration/ultrafiltration) membrane vendors to provide pilot units.
   iv. Advertisement/Proposal Phase Services for the Pilot Units: FNI will support the Owner and CMAR through the advertisement and proposal phase services for the selection of inclined plate settler and low-pressure membrane vendors for the pilot study.
   v. Review Workshops and Meetings:
      1) Pilot Procurement/Lease Package Review Workshop with Owner. Prepare meeting agenda, attend, and prepare notes for one (1) pilot procurement/lease package review workshop with the Owner.
   vi. Deliverables:
      1) Pilot Procurement/Lease Package. Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

d. Pilot Execution
   i. Coordinate with Pilot Vendors: FNI will coordinate with the inclined plate settler vendor(s) and low-pressure membrane vendors for the delivery and installation of the pilots. The vendors will be responsible for setting up their respective pilot units. The CMAR will be responsible for offloading and loading the pilots.
   ii. Execute the Pilot Protocol: FNI will coordinate with the pilot vendors to execute the pilot per the TCEQ approved pilot protocol. Should pilot adjustments be needed to the protocol over the course of the pilot, FNI will coordinate with the vendors and TCEQ.
   iii. Field Support during the Pilot: FNI will make weekly trips, to review the status of the pilot units in conjunction with weekly water sample collection.
   iv. Water Quality and Sampling Support:
      1) FNI will coordinate with the City of Denton water quality testing laboratory and will execute the weekly and monthly portion of the sample protocol of the approved pilot protocol.
      2) FNI will make up to eighteen (18) site visits to the pilot during pilot execution.
      3) The Owner will provide support for the daily portion of the sample protocol.
      4) The water quality testing laboratory is assumed to be the City of Denton laboratory. Providing independent laboratory services may be provided as an Additional Service.

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5) The Owner will provide support for daily samples.

v. Inclined Plate Settler Pilot Report: FNI will prepare a pilot report based on the data collected from the inclined plate settler pilot. FNI will coordinate with the Owner for review of the report prior to submission to the TCEQ. This report will provide the design parameters for the full-scale project.

vi. Low-Pressure Membrane Pilot Report: FNI will prepare a pilot report based on the data collected from the low-pressure membrane pilots and the vendor furnished pilot reports. FNI will coordinate with the Owner for review of the report prior to submission to the TCEQ. This report will provide the design parameters for the full-scale project.

vii. Review Workshops and Meetings:
   1) Pilot Report Review Workshop with Owner. Prepare meeting agenda, attend, and prepare notes for one (1) pilot report review workshop with the Owner.
   2) Pilot Report Review with TCEQ. Prepare meeting agenda, attend, and prepare notes for one (1) pilot report review meeting with the TCEQ and Owner.

viii. Deliverables:
   1) Pilot Report – Inclined Plate Settlers and Low-Pressure Membrane. Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

3. SWIFT Funding Assistance and Regulatory Requirements
   a. Stage 1 – Abridged Application Phase
      i. FNI will prepare the abridged application Form for Texas Water Development Board (TWDB) State Water Implementation Fund for Texas (SWIFT) program.
      ii. Review Workshops and Meetings:
         1) Meeting with the Regional Water Project Development Team and Owner: FNI will participate in two (2) videoconference meetings with the TWDB regional water project development (RWPD) team, the CMAR, and the Owner. This meeting will review the program requirements as they apply to the Project.
         2) Abridged Application Review Workshop with Owner: Conduct one (1) workshop with the Owner to review the package.
      iii. Deliverables:
         1) Abridged Application to Owner: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.
         2) Abridged Application to TWDB: Submit the abridged application to the TWDB through the TWDB online submittal tool (OLA) based on the information prepared for the Owner.
   b. Stage 2 – Full Application Phase
      i. FNI will prepare the full application package for submission to the TWDB SWIFT program.
      ii. The preliminary design report (PDR) prepared in *Phase 1 – Preliminary Design* will be the basis for the required preliminary engineering feasibility report (PEFR).

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iii. The final design report (FDR) prepared in *Phase 2 – Detailed Design* will be the basis for the required engineering feasibility report (EFR).

iv. FNI will prepare the TWDB environmental data form. A full environmental review is not included in this Scope of Services and is considered an Additional Service. Refer to Special Services D.2 for additional information.

v. FNI will prepare, with input from the Owner, a governing body application resolution for the Owner's use.

vi. FNI will review and respond to requests for information and questions from the TWDB.

vii. Review Workshops and Meetings:

1) Pre-Application Meeting with the Regional Water Project Implementation Team and Owner: FNI will participate in one (1) videoconference pre-application meeting with the TWDB regional water project implementation team, the CMAR, and the Owner. The Owner should include the Owner's project manager, financial advisor, and the bond counsel at this meeting.
2) Full Application Review Workshop with Owner: Conduct one (1) workshop with the Owner to review the package.
3) TWDB Coordinate Conference Calls: Conduct up to three (3) conference calls with the Owner and TWDB to respond to questions.
4) TWDB Board Meeting: Attend one (1) TWDB Board Meeting to support the application and commitment of funds process.

viii. Deliverables:

1) Preliminary Engineering Feasibility Report (PEFR): The PDR will be developed and submitted under *Phase 1 – Preliminary Design* and will be developed to satisfy the requirements of the PEFR.
2) Engineering Feasibility Report (EFR): The PDR will be developed and submitted under *Phase 1 – Preliminary Design* and will be developed to satisfy the requirements of the EFR. Significant changes to the PDR may be provided as an Additional Services.
3) Governing Body Application Resolution: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.
4) Full Application to Owner: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.
5) Full Application to TWDB: Submit the full application to the TWDB through the TWDB OLA tool based on the information prepared for the Owner.

c. Stage 3 – Post Application

i. The project budget and schedule developed by the CMAR will be used as the basis to update the TWDB.

ii. FNI will support the Owner and TWDB with closing release.

iii. Review Workshops and Meetings: No review workshops or meetings are furnished as part of this stage.

iv. Deliverables: No deliverables are furnished as part of this stage.

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4. SWIFT Funding Assistance and SWIFT Regulatory Requirements – Environmental Data Form
   a. FNI will prepare an Environmental Data Form (EDF) as required by Texas Water Development Board (TWDB) SWIFT or other state program (31 TAC §363.14). The EDF will be a stand-alone, self-contained document describing the project in sufficient detail to allow for resource agency review without reference to an engineering study or other documents. The EDF format will follow the guidelines provided by the TWDB (form TWDB-0800). It is assumed that the preparation of the draft EDF will begin after the project footprint is defined. The following services will be completed for the EDF.
   b. Conduct Site Visit. FNI will conduct one (1) site visit to make observations in the project area necessary to describe the existing environmental conditions and assess project impacts. Prior to conducting a site visit, FNI will compile readily available information and prepare maps of the proposed project area. The presence and locations of waters of the U.S. (such as streams, ponds, or wetlands), potential threatened/endangered species habitat, and visible areas of potential hazardous materials contamination will be identified.
   c. Environmental Risk Database Review. FNI will review environmental risk database reports to assess the potential for hazardous materials contamination on any property being acquired or constructed upon as part of the project. FNI will summarize the results of the database review and Phase I ESA in a technical memorandum and the results will be incorporated into the final EDF.
   d. Agency Coordination. FNI will submit coordination/notification letters and the draft EDF to appropriate agencies, as required, including U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service, Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, local managers of the Federal Flood Insurance Program, the local council of government, and other regional agencies or local governments that may have jurisdiction. If preparation and submittal of a Pre-Construction Notification (PCN) or other Section 404 permit authorization from the USACE (e.g., Individual Permit) is required for the proposed project, then those services can be provided by FNI as an Additional Service upon written authorization. Comments received from the agencies will be incorporated into the final EDF.
   e. Coordination with Texas Historical Commission. Projects sponsored by a political subdivision of the State (including a city) that affect a cumulative area greater than five acres or that disturb more than 5,000 cubic yards require consultation with the Texas Historical Commission (THC) according to Section 191.0525 (d) of the Antiquities Code of Texas. As such, FNI will conduct a desktop cultural resources evaluation to be submitted to the THC for review by the State Historic Preservation Officer (SHPO). If archaeological or historical surveys are required by the THC, a Professional Archeologist will be sub-contracted to perform the surveys as an Additional Service upon the City's written authorization. Results of required archaeological or historical surveys and coordination with the THC will be summarized in the EDF.
   f. Preparation of Draft and Final EDF. FNI will prepare a draft EDF following appropriate TWDB guidelines. The draft EDF will be submitted to City for review and comment. FNI will incorporate City's comments into the draft EDF and submit the revised draft EDF to the City prior to submittal to agencies or the TWDB. After agency coordination, the EDF will be

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finalized by incorporating required changes or comments received into the final document. The Final EDF will be submitted to the TWDB for approval.

5. High Service Pump Station System Curve Development
   a. The hydraulic water model from the 2018 Water Master Plan will be used to generate the system head curves for the High Service Pump Station. System curves will be developed under existing and future average day and maximum day demand conditions. This task does not include updating or modifying the hydraulic water model network or system operations.

6. Pump Station Hydraulic Physical Model
   a. The physical model is recommended by the Hydraulic Institute (HI) for water pumping facilities of this size. If the Owner prefers to not proceed with the physical model, FNI will take an alternative approach of using HI Guidelines for the design. There are risks associated with this approach; however, it is an alternative that some water systems have accepted.
   b. FNI will contract with a research hydraulic laboratory to develop a physical model of the pump station identified below in accordance with the Hydraulic Institute (HI) Standards. Proposed improvements shall be modeled to evaluate the hydraulic conditions at the pumps and to develop design modifications that may be necessary to correct adverse flow phenomena. The professional services associated with this Task are described herein.
   c. Physical Model Design: Develop the physical model based on the Level II (approximately 50 to 60 percent) design submittal. Verify pump station elevations and dimensions for areas that are accessible with survey from the preliminary design and incorporate them into the model. Assess suitability of the geometric scale of 1:4.125 to meet HI Standards design criteria once the final design details are available and adjust, if required.
   d. Physical Model Construction:
      i. Ray Roberts Raw Water Pump Station: Simulate the geometric features in the vicinity of the pumps capable of influencing station hydraulics in the model. The model must include the 60-inch header and upstream geometry that may affect the flow; 60 by 36-inch tee; three 60 by 42-inch tees; three (proposed) 60 by 48-inch tees; one fully modeled 42-inch takeoff, suction can, and 20 MGD pump; and one fully modeled 48-inch takeoff, suction can, and 30 MGD pump. The fully modeled 42-inch takeoff shall be constructed in such a manner that the pump unit can be installed at either the 1st, 2nd, or 3rd takeoff to evaluate the sensitivity of hydraulic conditions for various pump locations. The fully modeled 48-inch takeoff shall be constructed in such a manner that the pump unit can be installed at either the 4th, 5th, or 6th takeoff to evaluate the sensitivity of hydraulic conditions for various pump locations. The remaining tees and laterals shall include flow meters and control valves such that various pump combinations/operating scenarios can be simulated. This model layout shall enable characterization of a range of operating scenarios for the most efficient construction cost. Additionally, the model shall also be constructed such that the can depth can be varied and the impacts of a shallower can depth can be evaluated.

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e. Physical Model Testing: The test program shall consist of three phases: baseline testing, design development testing, and documentation testing.
   i. Baseline Testing: The scope shall include a baseline test to define the general flow characteristics within the Ray Roberts Raw Water Pump Station for an initially proposed design and identify any adverse hydraulic phenomena approaching the pump. Document the source and strength of vortices and make measurements to characterize the swirl. Up to four (4) test scenarios have been assumed for the pump station for baseline testing.
   ii. Design Development Testing: The scope shall include up to three (3) design modification iterations to the physical models using two to three test conditions for each pump station. Conduct testing with the fully modeled assemblies described above. Analyses of additional variations, if required, may be provided as an Additional Service.
   iii. Documentation Testing: For the pump station, the scope shall include the final selected modified design approved by FNI for four (4) test scenarios. These test scenarios shall include four tests with the fully modeled pump assemblies described above. Collect pump throat velocity distribution and point velocity fluctuations for one test.

f. Prepare a draft and final report including a summary of model scaling theory, a description of the models, color photographs and graphics representing key aspects of the modeling program, test procedures, test results, and drawings detailing recommended design modifications. Lightly edited video clips collected during the study that offer good future reference on the model may also be provided.

g. Review Workshops and Meetings:
   i. Witness Testing: FNI will attend up to two (2) days of witness testing with the Owner to witness the physical hydraulic model testing to assist in understanding of the hydraulic conditions, limitations, and recommend modifications. It is assumed that the Owner will arrange and pay for travel and accommodations needed for the Owner's staff that will be attending the site visits.
   ii. Pump Station Physical Model Report Review Workshop with Owner: Prepare meeting agenda and notes and attend one (1) pump station physical model report review workshop with the Owner.

h. Deliverables:
   i. Pump Station Physical Model Report: Submit one (1) electronic PDF draft copy to Owner for review and one (1) electronic PDF final copy to Owner upon incorporation of review comments.

7. Additional Services Per Owner Direction
   a. With the direction and written authorization of the Owner, FNI will provide additional services. FNI will prepare the requested additional services scope and effort for review by the Owner. Upon review and approval of the additional services scope and authorization by the Owner, FNI will execute the additional services as outlined in the furnished scope and effort documentation.

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b. The Owner reserves the right to authorize portions of this additional services allowance up to the maximum limit or none at all. The effort ceiling for additional services is limited to $203,000, unless adjusted through an executed amendment between the Owner and FNI.

ARTICLE III - ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above-described Basic or Special Services, are described as follows:

A. Field layouts or the furnishing of construction line and grade surveys.
B. GIS mapping services or assistance with these services.
C. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
D. Providing renderings, models, and mock-ups requested by the Owner.
E. Revising drawings, specifications, or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
F. Providing consultation concerning the replacement of any work damaged by fire or other cause during the construction and providing services as may be required regarding the replacement of such work.
G. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.
H. Providing shop, mill, field or laboratory inspection of materials and equipment.
I. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
J. Furnishing Special Inspections required under the International Building Code. These Special Inspections are often continuous, requiring an inspector dedicated to inspection of the individual work item, and they are in addition to General Representation and Resident Representation services noted elsewhere in the contract.
K. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with CMAR and/or Contractor(s).
L. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
M. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
N. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
O. Performing investigations, studies, and analyses of work proposed by construction CMAR and/or Contractors to correct defective work.
P. Design, contract modifications, studies or analyses required to comply with local, State, Federal

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or other regulatory agencies that become effective after the date of this Agreement.

Q. Services required to resolve bid protests or to rebid the Projects for any reason.

R. Visits to the site more than the number of trips included in Basic Services or Special Services for periodic site visits, coordination meetings, or contract completion activities.

S. Any services required because of default of the CMAR or the failure, for any reason, of the CMAR to complete the work within the contract time.

T. Providing services after the completion of the construction phase not specifically listed in Basic Services or Special Services.

U. Providing Basic or Special Services on an accelerated time schedule. The scope of this service includes cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.

V. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.

W. Providing services to review or evaluate CMAR's claim(s), provided said claims are supported by causes not within the control of FNI.

X. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this Professional Services Agreement.

Y. Providing data, reports or briefings to City Councils or governing boards on the status of the Project outside of what is described in the Basic or Special Services.

Z. Designing additional facilities beyond those identified in Basic Services.

AA. Preparation of a Stormwater Pollution Prevention Plan (SWPPP) for the Project.

BB. Providing services for pre-qualification of prospective bidders and issuing a list of eligible bidders prior to bid opening.

CC. Construction services (general, construction management, resident project representative, etc.) beyond the project duration or in excess of the estimated hours identified in this Scope.

DD. Management and review of excessive re-submittals by the CMAR (excessive is defined as more than three revisions).

EE. Quality control testing including but not limited to construction materials testing, verification testing, and other testing requirements specified in the Construction Contract Documents that are the responsibility of the CMAR.

FF. Preparation of a Pre-Construction Notification or Individual Section 404 permit application for submittal to the USACE.

GG. Preparation of a Jurisdictional Determination (JD) Evaluation Report.

HH. Conducting a conditional assessment (i.e., TXRAM) on waters of the U.S. potentially impacted by the proposed project.

II. Presence/absence surveys for federally listed threatened/endangered species.

JJ. Application for Texas Parks & Wildlife Department Sand and Gravel Permit.

KK. Application for General Land Office Easement.

LL. Phase I/II Environmental Site Assessment.

MM. Conducting an Archeological or Historic Resources Survey.

NN. Other environmental services not specifically defined in this scope of services.

OO. Preparing a traffic impact analysis (TIA) for the Project.

PP. Provide multiple power distributions system configurations for evaluation. It is understood that the plant expansion will include a dedicated distribution system separate from the existing distribution system.

QQ. Design paralleling the existing and new generators.

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ARTICLE IV - TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in accordance with the following schedule:

Phase 1 - Preliminary Design	6 months from NTP
Phase 2 - Final Design Services	16 months from approved PDR
Phase 4 - Construction Phase Services	38 months from CMAR NTP

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include, but are not limited to, delays in Owner or regulatory reviews, delays in the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE V - RESPONSIBILITIES OF OWNER: OWNER shall perform the following in a timely manner so as not to delay the services of FNI:

A. Owner recognizes and expects that certain Change Orders may be required. FNI recommends that the Owner budget a minimum of 5% of the estimated project cost for construction change orders.

Further, Owner recognizes and expects that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omission, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by FNI or in the other professional services performed or furnished by FNI under this Agreement ("Covered Change Orders"). Accordingly, Owner agrees to pay for Change Orders and otherwise to make no claim directly or indirectly against FNI on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the aggregate costs of all such approved Covered Change Orders exceed 2% for new construction and 4% for reconstruction. Any responsibility of FNI for the costs of Covered Changed Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include:

- Any costs that Owner would have incurred if the Covered Change Order work had been included originally in the Contract Documents and without any other error or omission of FNI related thereto,
- Any costs that are due to unforeseen site conditions,
- Any costs that are due to changes made by the Owner, or
- Any costs that are due to the CMAR.

Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, FNI is liable for the cost of Covered Change Orders in excess of the percent of Construction Cost stated above or for any other Change Order.

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B. Owner will designate in writing a person to act as Owner's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret, and define Owner's policies and decisions with respect to FNI's services for the Project.

C. Owner will provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.

D. Owner will assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

E. Owner will arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.

F. Owner will examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.

G. Owner will submit such documents, plans and specifications to appropriate regulating agencies and request the required approvals as expeditiously as is reasonable.

H. Owner will provide such accounting and independent cost estimating services as may be required for the Project, such legal services as Owner may require, such auditing services as Owner may require to ascertain how or for what purpose the CMAR has used the moneys paid under the construction contract, and such inspection services as Owner may require to ascertain that the CMAR is complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.

I. If Owner designates a person to serve in the capacity of Resident Project Representative who is not FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such Resident Project Representative(s) will be set forth in an Attachment RPR attached to and made a part of this Agreement before the Construction Phase of the Project begins. Said attachment shall also set forth appropriate modifications of the Construction Phase services as defined in Article I, Phase 4, together with such adjustment of compensation as appropriate.

J. Owner will attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job-related meetings and substantial completion inspections and final payment inspections.

K. Owner will give prompt written notice to FNI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of the CMAR.

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L. Owner will assist FNI by placing at FNI's disposal all available information including previous reports and any other data relative to the Project.

M. Owner will provide support for the daily portion of the pilot sample protocol.

N. Owner will provide water quality laboratory services for the pilot testing.

O. Owner shall bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI – COMPENSATION: The following is the breakdown of the proposed fee and in accordance with Attachment CO.

TASK	FEE	COMPENSATION TYPE
BASIC SERVICES		
A. Project Management, Quality Control, and Quality Assurance	$1,314,000	Lump Sum
C. Phase 1 – Preliminary Design	$1,579,000	
D. Construction Manager-as-Risk (CMAR) Coordination	$306,000	
E. Phase 2 – Final Design Services	$10,273,000	
F. Phase 3 – Bid and Procurement Services	$629,000	
G. Phase 4 – Construction Contract Administration Services	$2,777,000	
H. Phase 5 – Post Construction Phase Services	$256,000	
Total Basic Services	**$17,134,000**	
SPECIAL SERVICES		
SS-C: Phase 1 – Preliminary Design Special Services		
SS-C.1: Topographic Survey, LiDAR Survey, and Photogrammetry	$92,000	Cost Plus Multiplier
SS-C.2: Easement Support	$47,000	Cost Plus Multiplier
SS-C.3: Geotechnical Investigation and Geotechnical Engineer Report	$189,000	Cost Plus Multiplier
SS-E: Phase 2 – Final Design Special Services		

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TASK	FEE	COMPENSATION TYPE
SS-E.1: Council Presentations and Public Meetings	$6,000	Cost Plus Multiplier
SS-G: Phase 4 – Construction Contract Administration		
SS-G.1: Resident Project Representative (RPR)	$1,360,000	Cost Plus Multiplier
SS-G.2: Specialty Construction Electrical Inspection	$334,000	Cost Plus Multiplier
SS-G.3: Major Equipment Factory Witness Testing	$162,000	Cost Plus Multiplier
SS-G.4: Startup and Commissioning Services	$457,000	Cost Plus Multiplier
Total Special Services	**$2,647,000**	
OTHER SERVICES RECOMMENDED OUTSIDE OF A TRADITIONAL CMAR TYPE PROJECT		
SS-I.1: Treatment Process Laboratory – Jar Testing	$16,000	Cost Plus Multiplier
SS-I.2: Inclined Plate Settler and Low-Pressure Membrane Pilot	$622,000	Cost Plus Multiplier
SS-I.3: SWIFT Funding Assistance and Regulatory Requirements	$56,000	Lump Sum
SS-I.4: SWIFT Funding Assistance and SWIFT Regulatory Assistance Environmental Data Form	$53,000	Cost Plus Multiplier
SS-I.5:High Service Pump Station System Curve Development	$49,000	Cost Plus Multiplier
SS-I.6: Pump Station Physical Model [1]	$220,000	Cost Plus Multiplier
SS-I.7: Additional Services Per Owner Direction [2]	$203,000	Cost Plus Multiplier
Total Other Special Services	**$1,219,000**	
TOTAL FEE		
TOTAL FEE	**$21,000,000**	

Notes: (1) The physical model is recommended by the hydraulic institute (HI) for water pumping facilities of this size. If the owner prefers to not proceed with the physical model, FNI will take an alternative approach of using HI guidelines for the design. There are risks associated with this approach; however, it is an alternative that some water systems have accepted.

(2) Use of the funds associated with this task require written approval of the requested scope and authorization by the Owner. The Owner reserves the right to use none, a portion, or all of the funds associated with this contingency fund.

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ARTICLE VII - DESIGNATED REPRESENTATIVES: FNI and OWNER designate the following representatives:

Owner's Designated Representative –

Stephen Gay, Water Utilities Director
901-B Texas Street
Denton, Texas 76206
(940) 349-8086
Stephen.Gay@cityofdenton.com

FNI's Designated Representative –

James Naylor, PE, BCEE
101 South Locust Street, Suite 202
Denton, Texas 76201
(214) 217-2223 [office]
(817) 874-4187 [mobile]
James.Naylor@freese.com

FNI's Accounting Representative –

Lisa Broussard
12770 Merit Drive, Suite 900
Dallas, Texas 75251
(972) 331-6021
Lisa.Broussard@freese.com

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MEMORANDUM OF UNDERSTANDING

ATTACHMENT A

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TO:	Kyle Pedigo David Brown Katherine Koch
FROM:	James Naylor, PE, BCEE Kristen Cope, PE
SUBJECT:	Memorandum of Understanding to Support Exhibit A of the Contract
PROJECT:	Ray Roberts WTP Expansion to 40 MGD
DATE:	April 4, 2024
CC:	Erin Flanagan, PE, BCEE

GENERAL

The City of Denton (City) owns and operates the Ray Roberts Water Treatment Plant (WTP) with a current capacity of approximately 20 MGD. The current Ray Roberts WTP is a conventional surface water treatment plant. The City desires to expand the capacity of the Ray Roberts WTP to approximately 40 MGD through the design and construction of a parallel membrane process train. The anticipated initial capacity of the membrane process train will be 20 MGD with space reserved for an additional 30 MGD in the future for a total of 50 MGD at full build-out of the membrane building designed for this Project. A future expansion of an additional membrane building will provide another 40 MGD for a total membrane capacity of 90 MGD. This will provide the City with an ultimate treatment capacity of approximately 110 MGD from both process trains. The existing Ray Roberts Conventional WTP will continue to operate with its current configuration. The proposed Ray Roberts Membrane WTP will operate independently of the Ray Roberts Conventional WTP.

The Ray Roberts Membrane WTP process will generally utilize the following process elements:

- Existing Lake Ray Roberts (raw water source).
- Existing Raw Water Pump Station (shared with the Ray Roberts Conventional WTP).
- New, Parallel Raw Water Pipeline.
- New Pre-Ozone Contactor.
- New Pumped Diffusion Vault/Rapid Mix with aluminum chlorohydrate (ACH) or polyaluminum chloride (PACl).
- New Flow Split Structure.
- New Flocculation/Sedimentation with inclined plate settlers and differential head clarifier solids removal mechanism.
- New Membrane Feed Pump Station.
- New Low-Pressure Membrane Units with support systems.
- New Intermediate Ozone Contactor.
- New Biologically Active Filters.

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- New Transfer Pump Station.
- New Clearwell (shared with the Ray Roberts Conventional WTP).
- Existing High Service Pump Station (shared with the Ray Roberts Conventional WTP).
- Solids Handling utilizing a solids holding tank/thickener and centrifuge dewatering process.

CONSTRUCTION MANAGER AT RISK (CMAR) COORDINATION

Engineer and CMAR Coordination: FNI will conduct coordination meetings with the CMAR throughout the project.

City, Engineer, and CMAR Coordination: FNI will conduct coordination meetings with the City and CMAR throughout the project.

INCLINED PLATE SETTLER AND LOW-PRESSURE MEMBRANE PILOT

Pilot Procurement Package:

Coordinate with the City for Pilot Procurement Package: FNI will coordinate with the City Department of Water Utilities and Purchasing Department to develop a procurement package for the inclined plate settler pilot and low-pressure membrane pilot. These pilots will not be purchased by the City, but instead they will be rented. As part of the rental agreement, the vendors will provide the necessary data and reports to support the pilot study and submittals to the Texas Commission on Environmental Quality (TCEQ).

Coordinate with Inclined Plate Settler Vendors: Based on the total flow needs of the low-pressure membrane pilots, engage with up to two (2) inclined plate settler vendors to provide pilot units.

Coordinate with Low-Pressure Membrane Vendors: Based on discussions with the City, coordinate with up to two (2) low-pressure (microfiltration/ultrafiltration) membrane vendors.

Advertisement/Proposal Phase Services for the Pilot Units: FNI will support the City and CMAR through the advertisement and proposal phase services for the selection of inclined plate settler and low-pressure membrane equipment.

Develop the Inclined Plate Settler and Low-Pressure Membrane Pilot Protocol: FNI will prepare a pilot protocol that will include the necessary operational goals, sampling and testing plan, schedule, and aspects required by the TCEQ. As part of the development of the pilot protocol, FNI will coordinate with the TCEQ and pilot vendors to verify that the pilot protocol meets the project requirements and goals. FNI will review the pilot protocol with the City and submit the protocol to the TCEQ for approval.

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Pilot Support Facilities:

Design Pilot Facilities: FNI will provide detailed design to support the inclined plate settler and low-pressure membrane pilots. Based on discussions with the City, the proposed Ray Roberts Membrane WTP will include pre-ozonation; therefore, the water source for the pilot will be from downstream of the existing Pre-Ozone Contactor, but before any additional chemical feed. Low-pressure membranes are not commonly operated with ferric sulfate; therefore, the pilot facilities will include either an aluminum chlorohydrate (ACH) or polyaluminum chloride (PACl) storage (tote) and feed system. This approach will provide the necessary chemical flexibility for the pilot. In addition to the raw water supply and coagulant systems, a temporary facility will be designed for the pilot units. The inclined plate settler pilot(s) will be located outdoors; however, the low-pressure membrane pilot units must be protected from extreme weather (i.e., direct sun and freezing conditions). Temporary power and piping systems will be provided. The membrane filtrate, backwash, and chemical cleaning system streams will be returned to the existing Washwater Recovery Basin and recycled to the head of the Ray Roberts Conventional WTP. The low-pressure membrane pilot will require that low-pressure vendors seek alternatives to citric acid, which is commonly used in low-pressure membrane clean-in-place systems. Recycling the citric acid waste will significantly impact the coagulation process.

Advertisement/Proposal Phase Services for the Pilot Facilities: FNI will support the City and CMAR through the advertisement and proposal phase for the construction of the pilot facilities.

Construction Phase (General Representation) Services for the Pilot Facilities: FNI will support the City and CMAR through the construction phase for the construction of the pilot facilities.

Execute Pilot:

Coordinate with Pilot Vendors: FNI will coordinate with the inclined plate settler and low-pressure membrane vendors for the delivery and installation of the pilots. The vendors will be responsible for setting up their respective pilot units. The general contractor selected for the construction of the pilot facilities will be responsible for offloading and loading the pilots.

Execute the Pilot Protocol: FNI will coordinate with the pilot vendors to execute the pilot per the TCEQ approved pilot protocol. Should adjustments be needed to the protocol over the course of the pilot, FNI will coordinate with the vendors and TCEQ.

Field Support during the Pilot: FNI will make trips as identified in Exhibit A to review the status of the pilot.

Water Quality and Sampling Support: FNI will coordinate with the City of Denton water quality testing laboratory and will execute the weekly and monthly portion of the sample protocol of the approved pilot protocol. The City will provide support for the daily portion of the sample protocol. The water quality testing laboratory is assumed to be the City of Denton laboratory.

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Inclined Plate Settler and Low-Pressure Membrane Pilot Report: FNI will prepare a pilot report based on the data collected from the pilot. FNI will coordinate with the City for review of the report prior to submission to the TCEQ. This report will provide the design parameters for the full-scale project.

BASIS OF DESIGN AND PRELIMINARY DESIGN REPORT (LEVEL I/20-30%)

Basis of Design and Preliminary Design Report: FNI will prepare a basis of design and preliminary design report for the Project. This report will identify the necessary improvements for the expansion, design criteria used for the design, and prepare preliminary process and instrumentation diagrams (P&IDs), relevant one-line diagrams, process layouts, and a 3D model overview.

Raw Water Pump Station:

The raw water pump station (RWPS) is currently equipped with three vertical turbine pumps. Based on the nameplate data, the pumps have a capacity of 20.0 MGD (P-RW-1 and P-RW-2, 200 HP) and 12.25 MGD (P-RW-3, 125 HP). The current firm capacity of the raw water pump station is approximately 32.25 MGD. With an anticipated total treatment raw water need of 40 to 50 MGD, the existing RWPS does not have the necessary pumping capacity for the expansion. Based on a preliminary desktop evaluation of the existing RWPS and pump cans using the current Hydraulic Institute standards, the existing cans are limited to supporting a pump with a capacity of approximately 20 MGD. At the ultimate capacity buildout, the RWPS will be expanded to support up to an additional three vertical pumps, for a total of six pumps. As part of the Project, P-RW-1 and P-RW-2 will be re-built, and P-RW-3 will be replaced with a larger capacity pump. The RWPS building will be expanded to accommodate the ultimate capacity, but only one additional pump (P-RW-4) will be designed as a means to provide the City with the necessary firm capacity to deliver the expanded raw water capacity to the RRWTP. FNI will include provisions in the contract drawings for the pump cans to be cleaned of accumulated materials.

The existing butterfly valves and electric motor operators at the raw water pump station will be replaced. The electric motor operators will match those specified on the Ray Roberts Water Treatment Plant (RRWTP) Capacity Re-Rate and Performance Improvements project, including the use of a centralized control and processing unit for the electric motor operators.

The instrumentation associated with the RWPS (turbidity, pH, wet well level, and raw water flow) will be replaced.

The fiber optic communication connection between the Ray Roberts WTP and the RWPS will be replaced.

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The existing unit heaters and fans and louvers at the RWPS will be replaced.

The existing RWPS easement from the USACE will be modified as part of these improvements.

Raw Water Pump Station Electrical Building:

The switchgear, motor control center, and adjustable frequency drives within the existing electrical building will be replaced with new equipment. FNI will design an expansion to the existing Raw Water Pump Station Electrical Building to support the expanded RWPS and for future RWPS electrical equipment. The materials of construction and approach to the Raw Water Pump Station Electrical Building Extension will be similar to the existing Raw Water Pump Station Electrical Building. Improvements to accommodate a new, separate Electrical Building will be considered an Additional Service.

The existing underground electrical service will be upgraded to support the RWPS expansion.

In addition to replacing the electrical gear, the air conditioning system for the building will be replaced.

The PLC at the RWPS will be expanded the handle the additional I/O for the new VFDs.

The existing RWPS easement from the USACE will be modified as part of these improvements.

Raw Water Pipeline:

FNI will design a parallel raw water pipeline from near/at the Raw Water Pump Station to the Ray Roberts Membrane WTP. The design will include a dedicated raw water flow meter and flow control valve.

The existing raw water pipeline will be modified to include a flow control valve and new raw water flow meter dedicated for the Ray Roberts Conventional WTP.

Additional easements may be required. Procurement of these easements will be considered an Additional Service.

Pre-Ozone Contactor:

FNI will design a Pre-Ozone Contactor dedicated to the Ray Roberts Membrane WTP. The Pre-Ozone Contactor will be designed to accommodate future expansion needs. The Pre-Ozone Contactor configuration will be similar to the existing contactors; however, ozone will be delivered through the use of a side-stream injection process

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instead of diffusers. Ozone destruct units and vacuum relief valves will be designed for the Pre-Ozone Contactor.

The instrumentation for the Pre-Ozone Contactor will include a closed-loop ozone residual analyzer system to monitor the ozone residual throughout the Pre-Ozone Contactor, and ambient-ozone analyzers will be included within the gallery for personnel safety.

A PLC or remote I/O PLC will also be provided in the Pre-Ozone Contactor.

The Pre-Ozone Contactor gallery will be heated and ventilated.

Pumped Diffusion Vault/Rapid Mix:

A Pumped Diffusion Vault/Rapid Mix system dedicated to the Ray Roberts Membrane WTP will be designed. The rapid mix arrangement will be based on a side-stream pump and nozzle arrangement to introduce significant mixing energy in the raw water pipeline near the coagulant injection location. The pumped diffusion/rapid mix system will be designed to accommodate flows from approximately 2 MGD to approximately 90 MGD.

Raw water instruments such as pressure and turbidity will be included.

The Pumped Diffusion Vault will be heated and ventilated.

Flow Split Structure:

The Flow Split Structure will be designed to support expansions up to 90 MGD and this Project will include the initial portion of the structure to accommodate the Ray Roberts Membrane WTP.

The intent is for this structure to be open top with removable grating to facilitate access for future maintenance and cleaning.

The Flow Split Structure will utilize adjustable weir gates (electrically motor operated).

A level element will be provided at the Flow Split Structure to measure the head over the weirs. A flow meter will be provided for each train for process control and flow pacing.

Flocculation/Sedimentation Basins:

The Flocculation/Sedimentation Basins will be designed for a capacity of approximately 10 MGD per basin.

The flocculation system will utilize vertical shaft flocculator mechanisms.

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The sedimentation basins will utilize inclined plate settlers operating at a higher surface overflow rate (SOR) than allowed by TCEQ for sedimentation basins. As a result of this design approach, data from the inclined plate settler pilot will be submitted to TCEQ for review and approval. The TCEQ may require a full-scale demonstration pilot to verify the inclined plate settler performance. A full-scale demonstration study will be provided as a Special Service.

The sedimentation basins solids removal system will be based on a differential head clarifier mechanism.

Sedimentation Basin Solids Pump Station:

The Project will include a Sedimentation Basin Solids Pump Station designed for the current Project but will be readily expandable for future needs. This pump station will transfer solids to the solids handling facilities.

The pump station will be based on the use of submersible centrifugal pumps designed to handle water treatment solids and utilize adjustable frequency drives.

Membrane Feed Pump Station:

The Membrane Feed Pump Station will be based on the use of vertical turbine/propeller pumps in an open pump station configuration. These pumps will be sized based on input from the selected low-pressure membrane manufacturer. This pump station will be designed to be expandable with slots for additional pumps to account for future expansion needs.

The Membrane Feed Pump Station will be designed with a pressure relief system to protect the low-pressure membranes from pressure surges.

The wetwell level will be monitored by a level instrument. The pumps will be operated by adjustable frequency drives.

Administration/Operation/Low-Pressure Membrane Building:

The Administration/Operation/Low-Pressure Membrane Building will include multiple process areas and occupied spaces. The Administration/Operation/Low-Pressure Membrane Building will be designed to accommodate the low-pressure membrane system components for up to 50 MGD of membrane treatment capacity. The initial low-pressure membrane system will have a 20 MGD capacity with subsequent expansions of modular membrane units phased in to reach a total capacity of 50 MGD; however, the full building will be constructed as part of this Project with space reserved for the future membrane units. A future expansion of an additional membrane building will provide another approximately 40 MGD membrane system for a total membrane capacity of 90 MGD in the future.

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The building will be a two-story structure to provide the areas identified below. The primary building construction will be concrete masonry units (CMU) with a veneer and metal roof.

To provide accessibility, the building will be equipped with an elevator.

The building will be equipped with a fire alarm system and fire suppression systems (dry and wet types), as required by the City Building Code.

Membrane Process Area:

The Membrane Process Area will house the pre-membrane strainers in an N+1 configuration to meet the current Project needs while being readily expandable to 50 MGD in a future phased membrane expansion.

The low-pressure membrane units will be designed in an N+1 configuration to meet the current Project needs while being readily expandable to 50 MGD in the future.

The low-pressure membrane clean-in-place (CIP) system will be designed to support up to 50 MGD of membrane capacity. The CIP system will utilize sodium hydroxide (caustic), sodium hypochlorite, and an acid. The caustic storage system will be based on the use of a small storage tank and a transfer pump at the Ray Roberts WTP caustic bulk storage. The sodium hypochlorite system will be based on the use of a small storage tank and a transfer pump at the Ray Roberts WTP Disinfection Building. Acid storage will be based on the use of totes. A dechlorination agent will be included with the CIP system to neutralize the chlorine residual in the spent CIP solution. In addition to these chemical systems, this process area will include an automatic spent CIP solution neutralization system, recirculation system, and a water softener to support the caustic CIP process.

A bridge crane will be designed for the Membrane Process Area to support maintenance and operational needs in the area.

Grating and pipe racks will be designed to provide ease of maintenance at the strainers.

Grating and pipe racks will be designed for the low-pressure membrane system piping and access.

The Main Process Area will be heated and ventilated. Air conditioning systems are not included as part of the Basic Services and the design of those systems is considered an Additional Service.

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Emergency eyewash/showers will be provided. The emergency plumbing fixtures will include a tepid water system.

Air Compressor/Blower Room:

The Air Compressor/Blower Room will house the air compressors and blowers in an N+1 configuration to meet the current Project needs while being readily expandable to 50 MGD in the future.

The Air Compressor/Blower Room will be air conditioned for heat load mitigation.

Electrical/Programmable Logic Controller (PLC) Room:

The Electrical/PLC Room will house the electrical switchgear and motor control center for the Project.

A dedicated low-pressure membrane PLC and a Ray Roberts Membrane WTP PLC will be designed for this room.

The room will be sized to support up to 50 MGD in future expansions.

The Electrical/PLC Room will be air conditioned for heat load mitigation.

A dry type fire suppression system will be installed in this room.

Occupied Space:

Operations/Control Room (2nd Floor):

Provide one (1) Operations/Control Room that will be located on the second floor and overlook the Membrane Process Area. Windows and doorways to be provided to view and access the Membrane Process area.

Server Room (2nd Floor):

Provide one (1) dedicated and secured server room as part of the Project to house the necessary network switches and servers. A dry type fire suppression system will be installed in this room.

The server and network switches housed within the Server Room will support the Ray Roberts Membrane WTP and will be connected to the server and network for the Ray Roberts Conventional WTP. The existing server and workstations for the Ray Roberts Conventional WTP will remain at the existing Administration/Operations Building.

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Operations Laboratory (2nd Floor):

An Operations Laboratory will be provided as part of the Project.

A fume hood will be designed as part of the Operations Laboratory to allow for chemical storage and analysis. Lab wastes will be collected and passed through an acid neutralization system prior to onsite disposal.

Male Restroom (2nd Floor):

Plumbed for water closets and sinks. Sanitary waste will be collected and pumped to an on-site sewage facility.

Female Restroom (2nd Floor):

Plumbed for water closets and sinks. Sanitary waste will be collected and pumped to an on-site sewage facility.

Records Room (2nd Floor):

A Records Room will be provided as part of the Project.

Offices and Cubicles (2nd Floor):

Provide space for up to four (4) offices.

Provide space for up to four (4) cubicles.

Male Restroom, Lockers, and Showers (1st Floor):

Plumbed for water closets, sinks, and showers. Sanitary waste will be collected and pumped to an on-site sewage facility.

Female Restroom, Lockers, and Showers (1st Floor):

Plumbed for water closets, sinks, and showers. Sanitary waste will be collected and pumped to an on-site sewage facility.

Meeting/Training Room (1st Floor):

The Administration/Membrane Building will include a multi-purpose Meeting/Training Room. The Meeting/Training Room will be equipped with an ice maker and coffee maker.

Small Conference Room:

A smaller staff conference room will be included in the occupied space area.

Offices (1st Floor):

The Project will include up to four (4) offices.

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Break Room (1st Floor):

A break room will be designed to include plumbing for a sink, ice maker, dishwasher, freezer/refrigerator.

The breakroom will also include an oven/range with externally exhausted hood.

Intermediate Ozone Contactor:

FNI will design an Intermediate Ozone Contactor dedicated to the Ray Roberts Membrane WTP. The Intermediate Ozone Contactor will be designed to accommodate future expansion needs. The Intermediate Ozone Contactor configuration will be similar to the existing contactors; however, ozone will be delivered through the use of a side-stream injection process instead of diffusers. Ozone destruct units and vacuum relief valves will be designed for the Intermediate Ozone Contactor.

The instrumentation for the Intermediate Ozone Contactor will include a closed-loop ozone residual analyzer system to monitor the ozone residual throughout the Intermediate Ozone Contactor and ambient-ozone analyzers within the gallery for personnel safety.

A PLC or remote I/O PLC will also be provided in the Intermediate Ozone Contactor.

The Intermediate Ozone Contactor gallery will be heated and ventilated.

Biologically Active Filters:

The Project will include Biologically Active Filters to allow the City to remove the assimilable organic carbon formed as a result of the ozonation process. An overall strategy will be developed for the site to accommodate up to 90 MGD of Biologically Active Filter treatment capacity for the membrane process train; however, the Project will only include the necessary components for this Project's design capacity.

The Biologically Active Filters will be located downstream of the low-pressure membrane system; therefore, they will be designed as enclosed filters (not open to the atmosphere).

A Membrane Train Filter Control Kiosk will be installed above the filter structure. The kiosk will include multiple filter control consoles to operate the SCADA system. The kiosk will be air conditioned.

Each filter will be equipped with a level indicator, flow meter, differential pressure indicator, and online turbidity analyzer.

The pipe gallery will be heated and ventilated.

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Biologically Active Filters Electrical Building:

The project will include a new electrical building to house the electrical switchboard, panelboards and PLCs for the new Biologically Active Filters and Filter blowers.

Multiple PLCs will be provided for the Filters located in the Electrical Building.

This building will be air conditioned for heat load mitigation.

Biologically Active Filters Blower Building:

A new Biologically Active Filter Blower Building will be designed to house two blowers. These blowers will be dedicated to the Ray Roberts Membrane WTP Biologically Active Filters.

The building will be air conditioned to mitigate heat load.

Transfer and Biologically Active Filters Backwash Pump Station:

The proposed Transfer and Biologically Active Filter Backwash Pump Station will provide the means to lift the Biologically Active Filter filtrate to the clearwells. The design will accommodate up to approximately 90 MGD of transfer capacity; however, it will only be equipped with pumps for this Project with slots available for future expansions.

In addition to the transfer pumps, backwash pumps will be included at the pump station. These backwash pumps will be dedicated to the Biologically Active Filters for the Ray Roberts Membrane WTP.

This pump station will be an open configuration with no building.

The pump station wet well level will be monitored with a level indicator and the pumps will be controlled by adjustable frequency drives.

Existing Transfer Pump Station:

No work will be performed at the existing transfer pump station.

Transfer Pump Station Electrical Building:

The project will include a new electrical building to house the electrical switchboard and adjustable frequency drives for the new transfer pump station and filter backwash pumps. A PLC will be provided in the electrical building as well.

This building will be air conditioned for heat load mitigation.

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Clearwell:

The Ray Roberts WTP is currently equipped with one (1) 6-million-gallon (MG) ground storage tank (clearwell). The Project will include the design of an additional pre-stressed concrete 6-MG clearwell.

High Service Pump Station:

The Project will include the design of two (2) high service pumps in the open pump cans along with valve and piping improvements to support the installation of the pumps. FNI will include provisions in the contract drawings for the existing pump cans to be cleaned of accumulated materials.

The existing two (2) 1000 HP high service pump motors are non-inverter duty rated and will be replaced with inverter duty rated motors.

Hydraulic control valves are utilized for the four (4) existing pumps, and new hydraulic control valves will be utilized for the two (2) new high service pumps. There is an existing hydraulic oil accumulator that serves the existing pump control valve with piping installed for connection to the new high service pump control valves. It is assumed based on the age of the existing accumulator that the unit will need to be reconditioned as part of the Project. The hydraulic oil accumulator can be replaced as an Additional Service.

The heating and ventilation system of the High Service Pump Station will be replaced to mitigate heat accumulation in the building.

High Service Pump Station Electrical Building:

The High Service Pump Station Electrical Building will be expanded to accommodate the adjustable frequency drives for the additional high service pumps.

The PLC will be expanded to handle the additional I/O for the new adjustable frequency drives.

The air conditioning system for the High Service Pump Station Electrical Building will be expanded to continue to mitigate the heat load associated with the electrical gear and adjustable frequency drives.

Membrane WTP Main Drain Sump Pump Station:

The Project will include a Main Drain Sump Pump Station designed for the current Project but will be readily expandable for future needs. This pump station will transfer process drain water to the Backwash Equalization and Recycle Systems or the Solids Handling Systems.

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The pump station will be based on the use submersible centrifugal pumps designed to handle water treatment solids and utilize adjustable frequency drives.

Spent Backwash Equalization and Recycle Pump Station:

A second spent backwash equalization basin will be designed to operate in parallel with the existing Spent Backwash Equalization Basin (Washwater Reclamation Basin).

The Recycle Pump Station will be designed to accommodate the Project and be readily expandable to accommodate future growth. The pump station will be based on the use of submersible centrifugal pumps designed to handle water treatment solids and utilize adjustable frequency drives.

A parallel recycle pipeline will be designed from the proposed Recycle Pump Station to the raw water pipeline serving the Ray Roberts Conventional WTP.

Solids Handling – Solids Equalization/Thickener and Thickened Solids Pump Station:

A solids equalization/thickener will be designed to accommodate the solids from the Sedimentation Basin Solids Pump Station at the Ray Roberts Membrane WTP. Solids associated with the Ray Roberts Conventional WTP will not be incorporated into the design of the Project.

The feed pump system from the Equalization/Thickener to the dewatering equipment will be based on the use of constant speed submersible centrifugal pumps designed to handle water treatment solids. This feed pump system will be an open configuration with no building. Design of a different type of pump system will be considered an Additional Service.

Solids Handling – Dewatering Building:

The design will determine the needs for the current Project and to accommodate a membrane process buildout capacity of approximately 90 MGD. The design will include building and equipment components to support the Ray Roberts Membrane WTP solids. Solids associated with the Ray Roberts Conventional WTP will not be incorporated into the design of the Project.

Dewatering and Polymer Storage/Feed Area:

The dewatering process area of the Dewatering Building will house the centrifuges and solids conveying equipment.

The polymer totes and dosing system will be located in a designated area of the Dewatering Building.

The area will be ventilated and heated.

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Electrical and PLC Room:

The electrical and PLC room will house the electrical gear and PLC for the dewatering and support systems.

This room will be air conditioned for heat load mitigation.

Dewatered Solids Area:

The dewatered solids area will be based on the use of roll-off dumpsters that the City solids waste vendor utilizes. Conveyors will be designed to transport solids from the dewatering equipment to the roll-off dumpsters.

This area will be open to the outdoors; however, it will be shielded from precipitation and significant weather events.

Chemical Systems – Ozone Generation Building:

The existing ozone generation equipment will be replaced to support the existing Ray Roberts Conventional WTP and the Ray Roberts Membrane WTP. A strategy will be developed to allow for modular expansion of the generation facility through the addition of ozone generators.

The existing motor control center and electrical gear associated with the Ozone Generation Building will be replaced.

The existing air conditioning systems for the Ozone Generation Building will be replaced.

Chemical Systems – Liquid Oxygen Storage and Vaporizers:

The liquid oxygen storage and vaporizer system will be expanded to account for the additional treatment capacity of this Project. It is assumed that the existing liquid oxygen storage and vaporizer system are in good condition and will remain in place. Replacement of the existing liquid oxygen storage and vaporizer system will be considered an Additional Service.

Chemical Systems – Existing Bulk Storage Containment:

No work will be performed in the existing chemical bulk storage containment area.

Chemical Systems – Existing Chemical Feed Room:

No work will be performed in the existing chemical feed room.

Chemical Systems – New Bulk Storage Containment:

The Project will include the design for new chemical storage and containment for the Membrane WTP.

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FNI will design a new coagulant storage and cast-in-place concrete containment structure.

FNI will design a new caustic storage and cast-in-place concrete containment structure.

Emergency eyewash/showers will be provided. The emergency plumbing fixtures will include a tepid water system.

Chemical Systems – New Chemical Feed Building:

Chemical Feed Area:

The Project will include the design for a coagulant feed system for the Membrane WTP.

The Project will include the design for a caustic feed system for the Membrane WTP. In addition, a caustic transfer pump will be designed to pump caustic from the Membrane WTP caustic storage area to the Administration/Membrane Building CIP Area.

Emergency eyewash/showers will be provided. The emergency plumbing fixtures will include a tepid water system.

The area will be ventilated and heated.

Electrical/PLC Room:

The electrical equipment and PLC for this area will be located in this dedicated room.

The room will be air conditioned.

Chemical Systems – Existing Disinfection Building:

Two bulk sodium hypochlorite storage tanks will be added to the existing Disinfection Building.

The sodium hypochlorite feed system will be expanded to support the Project.

The liquid ammonium sulfate feed system will be expanded to support the Project.

The PLC will be expanded to handle the additional I/O.

Chemical Systems – Liquid Ammonium Sulfate Containment:

No work will be performed at the liquid ammonium sulfate containment.

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Existing Main Electrical Building No. 1:

Expand and modify the existing main switchgear based on the Main Power Distribution and Emergency Power Generation evaluation.

Replace existing air conditioning systems.

New Main Electrical Building No. 2 and Generators:

Design a new Main Electrical Building to support the current and future expansions. The Main Electrical Building No. 2 will be designed to back feed the existing Main Electrical Building to support the future replacement of the existing electrical gear. New generator(s) will be designed to power the facilities associated with the plant expansion.

A dedicated PLC and low-voltage electrical room will be provided within the Main Electrical Building No. 2.

Both rooms of the Main Electrical Building No. 2 will be air conditioned.

Maintenance and Electrical Shop:

A new Maintenance and Electrical Shop will be designed as part of the Project.

Process Mechanical Maintenance Area:

The process mechanical maintenance area will be an area for spare parts storage, rebuilding of pumps and process equipment, and other activities associated with the maintenance of the WTP.

The process mechanical maintenance area will be ventilated and heated. Ventilation will be designed to accommodate welding.

Process Mechanical Maintenance Office Area:

The process mechanical maintenance office area will include one (1) office and an arrangement for up to four (4) cubicles.

This area will be air conditioned.

Electrical and Instrumentation Maintenance Area:

The electrical and instrumentation maintenance area will be an area for spare parts storage, rebuilding of motors, and other activities associated with the maintenance of the WTP.

The electrical and instrumentation area will be ventilated and heated.

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Electrical and Instrumentation Spare Part Storage Room:

The electrical and instrumentation spare part storage room will be a space dedicated for electrical and instrumentation components that require climate-controlled storage.

This area will be air conditioned.

Electrical and Instrumentation Office Area:

The electrical and instrumentation office area will include one (1) office and an arrangement for up to four (4) cubicles.

This area will be air conditioned.

Unisex Restroom:

A single unisex restroom will be included as part of the Maintenance and Electrical Shop. Sanitary waste will be collected and pumped to an on-site sewage facility.

Miscellaneous Electrical:

The site electrical distribution transformers and feeders will be designed for all expansion facilities.

FNI will coordinate with the power utility about closed transition ("make before break") generators and main electrical gear serving the facilities associated with the expansion. The design will include items on the City's side to accommodate the closed transition approach.

Miscellaneous Instrumentation and Control:

The fiber network will be expanded to accommodate the Project components. Where possible, the fiber network will be designed as a loop utilizing the existing fiber and switches where possible.

FNI will coordinate with the City's security contractor regarding door access controls and camera systems.

The City has requested remote human-machine interface (HMI) clients at each major process location to allow operators to control all plant operations as needed. This will allow an operator to conduct their rounds to respond to plant alarms and make changes immediately versus returning to the operator control room to mitigate any critical issues. These clients will require operator-specific logins with automatic logout for security.

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The following PLC will be replaced as part of the Project:

- HSPS Electrical Room PLC (PLC-04)

Miscellaneous Yard Piping and Civil:

The following vaults are anticipated as part of the yard piping improvements:

- Conventional WTP Flow Meter Vault
- Conventional WTP Flow Control Valve Vault
- Membrane WTP Flow Meter Vault
- Membrane WTP Flow Control Valve Vault
- Membrane WTP Transfer Pump Station Ammonia Injection Vault

DETAILED DESIGN (LEVEL II/50-60%, LEVEL III/80-90%, and Issued for Bid/100%)

FNI will provide detailed design services for the items outlined above.

ADVERTISEMENT AND PROPOSAL PHASE

FNI will support the City and CMAR through the advertisement and proposal phase of the Project, including early out packages identified in the Scope of Services.

CONSTRUCTION SERVICES – GENERAL REPRESENTATION

FNI will provide general construction representation throughout the construction phase. FNI will utilize the City's PMIS software, Procore.

CONSTRUCTION CONTRACT ADMINISTRATION – RESIDENT PROJECT REPRESENTATION AND SPECIALTY CONSTRUCTION ELECTRICAL INSPECTIONS

FNI will provide a resident project representative and a specialty construction electrical inspector to support the City's project manager and field inspection team.

FACILITY STARTUP AND COMMISSIONING

The CMAR will prepare a startup and commissioning plan for review by the City and FNI prior to the startup phase. Based on input from the City and FNI, the startup and commissioning plan will be revised and used as a guide to verify that the processes are successfully started and commissioned.

OPERATION AND MAINTENANCE MANUAL

FNI will prepare an operation and maintenance manual based on the equipment operation and maintenance manuals and the design intent of the Membrane WTP.

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GEOTECHNICAL ENGINEERING SERVICES

FNI will conduct geotechnical engineering services as outlined in the Scope of Services to support the design of the project.

SURVEY

FNI will conduct topographic and surface survey of the Ray Roberts WTP to support the Project design.

In addition, LiDAR and Matterport may be utilized when coordinating and designing improvements to existing facilities.

UNITED STATES ARMY CORPS OF ENGINEERS COORDINATION

FNI will coordinate with the United States Army Corps of Engineers (USACE) regarding the Raw Water Pump Station and raw water pipeline improvements. It is assumed that an easement modification will be required to accommodate the Project components.

ENVIRONMENTAL SERVICES

FNI will provide environmental services necessary to support the USACE coordination and funding applications.

FUNDING SUPPORT SERVICES

FNI will support the City with the SWIFT application and post application SWIFT program compliance as well as compliance with the TWDB's rules on using a CMAR delivery.

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ATTACHMENT A

COMPENSATION

Position	Hourly Rate Min	Max
Professional 1	94	188
Professional 2	126	206
Professional 3	144	314
Professional 4	166	342
Professional 5	245	371
Professional 6	249	461
Construction Manager 1	123	173
Construction Manager 2	126	213
Construction Manager 3	159	213
Construction Manager 4	184	278
Construction Manager 5	220	324
Construction Manager 6	292	386
Construction Representative 1	83	98
Construction Representative 2	98	126
Construction Representative 3	134	202
Construction Representative 4	134	202
CAD Technician/Designer 1	90	130
CAD Technician/Designer 2	108	213
CAD Technician/Designer 3	141	270
Corporate Project Support 1	76	170
Corporate Project Support 2	87	249
Corporate Project Support 3	108	360
Intern / Coop	58	101

Rates for In-House Services and Equipment

Mileage

Standard IRS Rates

Technology Charge

$8.50 per hour

Bulk Printing and Reproduction

	B&W	Color
Small Format (per copy)	$0.10	$0.25
Large Format (per sq. ft.)		
Bond	$0.25	$0.75
Glossy / Mylar	$0.75	$1.25
Vinyl / Adhesive	$1.50	$2.00
Mounting (per sq. ft.)	$2.00	
Binding (per binding)	$0.25	

Equipment

	Survey Grade	Standard
Valve Crew Vehicle (hour)	$75	
Pressure Data Logger (each)	$200	
Water Quality Meter (per day)	$100	
Microscope (each)	$150	
Pressure Recorder (per day)	$100	
Ultrasonic Thickness Guage (per day)	$275	
Coating Inspection Kit (per day)	$275	
Flushing / Cfactor (each)	$500	
Backpack Electrofisher (each)	$1,000	
Drone (per day)	$200	$100
GPS (per day)	$150	$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multipler of 1.15. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated 2024.

360022024

Docusign Envelope ID: 189B4565-A54B-47CB-A754-97C898BEC660

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

Freese and Nichols, Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 Signed by:

250287AF3C534C4...
Signature of vendor doing business with the governmental entity

9/30/2024
Date

Docusign Envelope ID: 189B4565-A54B-47CB-A754-97C898BEC660

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

(3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars ($50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars ($200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

DocuSign

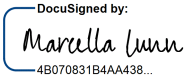
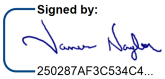
Certificate Of Completion

Envelope Id: 189B4565A54B47CBA75497C898BEC660
Status: Completed
Subject: Please DocuSign: City Council Contract 7574-029 RRWTP Expansion
Source Envelope:
Document Pages: 89
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
9/26/2024 1:54:44 PM
Holder: Erica Garcia
erica.garcia@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Erica Garcia erica.garcia@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 9/26/2024 1:59:47 PM Viewed: 9/26/2024 1:59:58 PM Signed: 9/26/2024 2:00:32 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/26/2024 2:00:35 PM Viewed: 9/26/2024 2:08:09 PM Signed: 9/26/2024 2:09:39 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/26/2024 2:09:41 PM Viewed: 9/26/2024 4:55:12 PM Signed: 9/26/2024 7:17:12 PM
James Naylor james.naylor@freese.com Principal/Vice President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/27/2024 3:37:03 PM ID: fda11318-c327-4533-8e75-8f0b3eda4e70	 Signature Adoption: Uploaded Signature Image Using IP Address: 198.211.208.110	Sent: 9/26/2024 7:17:16 PM Viewed: 9/27/2024 3:37:03 PM Signed: 9/30/2024 8:19:02 AM

Signer Events	Signature	Timestamp
Stephen D Gay stephen.gay@cityofdenton.com Director Water Utilities Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/30/2024 8:25:41 AM ID: 28384d8c-0884-4442-a1bd-ea2c90aa277c	Signed by: FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/30/2024 8:19:06 AM Viewed: 9/30/2024 8:25:41 AM Signed: 9/30/2024 8:34:56 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.10	Sent: 9/30/2024 8:35:00 AM Viewed: 10/23/2024 9:04:35 AM Signed: 10/23/2024 9:05:58 AM
Sara Hensley sara.hensley@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/23/2024 9:06:01 AM Viewed: 10/23/2024 9:10:04 AM Signed: 10/23/2024 9:10:14 AM
Lauren Thoden lauren.thoden@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: D09D09CAD33D487... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/23/2024 9:10:17 AM Viewed: 10/23/2024 10:20:35 AM Signed: 10/23/2024 10:20:53 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/26/2024 2:00:34 PM

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/30/2024 8:34:59 AM Viewed: 10/1/2024 9:38:43 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/23/2024 10:20:56 AM
David Brown David.Brown@cityofdenton.com Project Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/8/2024 8:53:19 AM ID: 5b3c3699-eb76-469f-97f1-ee962ebffd19	COPIED	Sent: 10/23/2024 10:20:57 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/26/2024 1:59:47 PM
Envelope Updated	Security Checked	9/27/2024 3:09:56 PM
Certified Delivered	Security Checked	10/23/2024 10:20:35 AM
Signing Complete	Security Checked	10/23/2024 10:20:53 AM
Completed	Security Checked	10/23/2024 10:20:57 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND FREESE AND NICHOLS, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON OCTOBER 22, 2024, IN THE NOT-TO-EXCEED AMOUNT OF $21,000,000.00; SAID FIRST AMENDMENT TO EXTEND THE REQUIRED PILOT STUDY FOR THE RAY ROBERTS WATER TREATMENT PLANT EXPANSION PROJECT FOR THE WATER UTILITIES DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7574-029 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $184,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $21,184,000.00).

WHEREAS, on October 22, 2024, City Council awarded a contract to Freese and Nichols, Inc. in the amount of $21,000,000.00, for regulatory permitting, process evaluation, and design services for the Ray Roberts Water Treatment Plant Expansion Project for the Water Utilities Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Freese and Nichols, Inc., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Eighty-Four Thousand and 0/100 ($184,000.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to $21,184,000.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

Docusign Envelope ID: F13DBC3F-DE7A-4351-B403-85B8AFAF72D0

Docusign City Council Transmittal Coversheet

PSA	7574-029
File Name	RRWTP Expansion Amendment 1
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

Docusign Envelope ID: F13DBC3F-DE7A-4351-B403-85B8AFAF72D0

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND FREESE AND NICHOLS, INC.
PSA 7574-029

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 7574-029 ("Amendment") by and between the City of Denton, Texas ("City") and Freese and Nichols, Inc. ("Engineer"); to that certain contract executed on October 22, 2024, in the original not-to-exceed amount of $21,000,000 (the "Agreement"); for services related to Ray Roberts Water Treatment Plant Expansion.

WHEREAS, the City deems it necessary to further expand the services provided by Engineer to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount $184,000 with this Amendment for an aggregate not-to-exceed amount of $21,184,000; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Engineer to the City;

NOW THEREFORE, the City and Engineer (hereafter collectively referred to as the "Parties"), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Exhibit "A" of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the design of Ray Roberts Water Treatment Plant Expansion, are hereby authorized to be performed by Engineer. For and in consideration of the additional services to be performed by Engineer, the City agrees to pay, based on the cost estimate detail attached as Exhibit "A" purposes, a total fee, including reimbursement for non-labor expenses an amount not to exceed $184,000.

2. This Amendment modifies the Agreement amount to provide an additional $184,000 for the additional services with a revised aggregate not to exceed total of $21,184,000.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

Docusign Envelope ID: F13DBC3F-DE7A-4351-B403-85B8AFAF72D0

IN WITNESS WHEREOF, the City and the Engineer, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date _____.

"City"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
AUTHORIZED SIGNOR, TITLE

ATTEST:
, CITY SECRETARY

By: _____

"Engineer"

FREESE AND NICHOLS, INC.

By: Signed by: _____ Principal/Vice President
250287AE3C534C4...
AUTHORIZED SIGNOR, TITLE

THIS AGREEMENT HAS BEEN BOTH REVIEWED AND APPROVED as to financial and operational obligations and business terms.

Signed by:
Stephen D Gay
FEB48BB9726E4A9...
SIGNATURE

Stephen D Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

BY: DocuSigned by: Marcella Lunn
4B070831B4AA438...

Docusign Envelope ID: F13DBC3F-DE7A-4351-B403-85B8AFAF72D0

EXHIBIT A – ENGINEERING SCOPE OF SERVICES
City of Denton, Texas
RRWTP Expansion
PSA 7574-029
Inclined Plate Settler and Low-Pressure Membrane Pilot Extension and Independent Testing Laboratory

UNDERSTANDING AND ASSUMPTIONS:

The City of Denton (City) desires to amend the Agreement for Engineering Services Related to Professional Services (Agreement) between the City and Freese and Nichols, Inc. (FNI) dated October 22. 2024, for the Ray Roberts Water Treatment Plant (RRWTP) Expansion (Project). This amendment will include an extension of the inclined plate settler and low-pressure membrane pilot and include the services of an independent testing laboratory (ITL) for water quality analysis.

The Agreement included Item I.2 *Inclined Plate Settler and Low-Pressure Membrane Pilot*. The pilot was originally structured around a single pilot season based on the following approximate schedule:

- Initiate Pilot Testing: 7 days.
- Stage 1 – Optimization of Pilot: 60 days.
- Clean-in-Place: 1 day.
- Stage 2 – Demonstration of Continued and Consistent Performance: 45 days.
- Clean-in-Place: 1 day.
- Stage 3 – Demonstration of Specific Flux Recovery Following a Clean-in-Place: 10 days.
- Total Duration: 124 days.

Based on input from the low-pressure membrane system suppliers selected by the City to proceed with the pilot study, the pilot program will be modified to include two runs – one with citric acid and one without citric acid. Citric acid is used as part of the low-pressure membrane clean-in-place (CIP) system. This modification will allow the membrane system suppliers to determine if the use of citric acid can be reduced.

The modified pilot program will be based on the following schedule:

- Inclined Plate Settler – Installation and Setup of Pilot Units: 7 days.
- Inclined Plate Settler – Stage 1 (Optimization): 14 days.
- Inclined Plate Setter – Stage 2 (Verification): 16 days.
- Low Pressure Membrane Pilot – Installation and Setup of Pilot Units: 7 days.
- Low Pressure Membrane Pilot – Stage 1 (Optimization): 30 days.
- Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
- Low Pressure Membrane Pilot – Stage 2a (Verification w/out Citric Acid): 30 days.
- Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
- Low Pressure Membrane Pilot – Stage 3a (Irreversible Fouling Assessment w/out Citric Acid): 14 days.
- Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
- Low Pressure Membrane Pilot – Stage 2b (Verification w/ Citric Acid): 30 days.
- Low Pressure Membrane Pilot – Clean-in-Place (w/ Citric Acid): 3 days.
- Low Pressure Membrane Pilot – Stage 3b (Irreversible Fouling Assessment w/ Citric Acid): 14 days.

FNI____
OWNER____

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- Low Pressure Membrane Pilot – Clean-in-Place (w/ Citric Acid): 3 days.
- Total Duration: 177 days.

In addition to extending the pilot, FNI will hire an independent testing laboratory (ITL) to perform the water quality analysis required for the pilot program. This testing was originally the responsibility of the City's water quality laboratory; however, the laboratory is not able to perform all the analyses, and the additional workload was a concern.

ARTICLE I - BASIC SERVICES: The task lettering and numbering below is based on the Agreement and only tasks impacted by this Amendment are listed. FNI shall render the following professional services in connection with the development of the Project:

None.

ARTICLE II - SPECIAL SERVICES: FNI shall render the following Special Services for the development of the Project:

I. Other Services Recommended Outside of Traditional CMAR Type Project:
  2. Inclined Plate Settler and Low-Pressure Membrane Pilot:
    a. Pilot Protocol Preparation
      ii. The pilot protocol will be based on a single season pilot following this approximate schedule:
        1) Inclined Plate Settler – Installation and Setup of Pilot Units: 7 days.
        2) Inclined Plate Settler – Stage 1 (Optimization): 14 days.
        3) Inclined Plate Setter – Stage 2 (Verification): 16 days.
        4) Low Pressure Membrane Pilot – Installation and Setup of Pilot Units: 7 days.
        5) Low Pressure Membrane Pilot – Stage 1 (Optimization): 30 days.
        6) Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
        7) Low Pressure Membrane Pilot – Stage 2a (Verification w/out Citric Acid): 30 days.
        8) Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
        9) Low Pressure Membrane Pilot – Stage 3a (Irreversible Fouling Assessment w/out Citric Acid): 14 days.
        10) Low Pressure Membrane Pilot – Clean-in-Place (w/out Citric Acid): 3 days.
        11) Low Pressure Membrane Pilot – Stage 2b (Verification w/ Citric Acid): 30 days.
        12) Low Pressure Membrane Pilot – Clean-in-Place (w/ Citric Acid): 3 days.
        13) Low Pressure Membrane Pilot – Stage 3b (Irreversible Fouling Assessment w/ Citric Acid): 14 days.
        14) Low Pressure Membrane Pilot – Clean-in-Place (w/ Citric Acid): 3 days.
    d. Pilot Execution
      iv. Water Quality and Sampling Support:
        1) FNI will contract and coordinate with an ITL, instead of the City's water quality testing laboratory planned in the Agreement and execute the weekly and monthly portions of the sample requirements of the approved pilot protocol.
        2) FNI will make up to thirty (30) site visits to the pilot during the pilot execution, instead of the eighteen (18) planned in the Agreement.

FNI____
OWNER____

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ARTICLE III - ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by City, which are not included in the above-described Basic or Special Services, are described as follows:

Refer to the Agreement.

ARTICLE IV - TIME OF COMPLETION: FNI is authorized to commence work on the Study upon execution of this Agreement and agrees to complete the services in accordance with the following schedule:

Refer to the Agreement.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust the contract schedule consistent with the number of days of delay. These delays may include, but are not limited to, delays in City or regulatory reviews, delays in the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE V – RESPONSIBILITIES OF CITY: City shall perform the following in a timely manner so as not to delay the services of FNI:

~~N. Owner will provide water quality laboratory services for the pilot testing.~~

ARTICLE VI – COMPENSATION: The following is a breakdown of the proposed fee and in accordance with Attachment CO provided in the Agreement:

TASK	ORIGINAL FEE	AMENDED FEE	TOTAL AMENDED FEE
BASIC SERVICES			
A. Project Management, Quality Control, and Quality Assurance	$1,314,000	--	$1,314,000
C. Phase 1 – Preliminary Design	$1,579,000	--	$1,579,000
D. Construction Manager-at-Risk (CMAR) Coordination	$306,000	--	$306,000
E. Phase 2 – Final Design Services	$10,273,000	--	$10,273,000
F. Phase 3 – Bid and Procurement Services	$629,000	--	$629,000
G. Phase 4 – Construction Contract Administration Services	$2,777,000	--	$2,777,000
H. Phase 5 – Post Construction Phase Services	$256,000	--	$256,000
Total Basic Services	**$17,134,000**	**--**	**$17,134,000**

FNI____
OWNER____

City of Denton
RRWTP Expansion – Inclined Plate Settler and Low-Pressure Membrane Pilot Extension and ITL Engineering Scope of Services

SPECIAL SERVICES			
SS-C: Phase 1 Preliminary Design Services			
SS-C.1: Topographic Survey, LiDAR Survey, and Photogrammetry	$92,000	--	$92,000
SS-C.2: Easement Support	$47,000	--	$47,000
SS.C.3: Geotechnical Investigation and Geotechnical Engineer Report	$189,000	--	$189,000
SS-E: Phase 2 – Final Design Special Services			
SS-E.1: Council Presentations and Public Meetings	$6,000	--	$6,000
SS-G: Phase 4 – Construction Contract Administration			
SS-G.1: Resident Project Representative (RPR)	$1,360,000	--	$1,360,000
SS-G.2: Specialty Construction Electrical Inspection	$334,000	--	$334,000
SS-G.3: Major Equipment Factory Witness Testing	$162,000	--	$162,000
SS-G.4: Startup and Commissioning Servies	$457,000	--	$457,000
Total Special Services	**$2,647,000**	--	**$2,647,000**
OTHER SERVICES RECOMMENDED OUTSIDE OF A TRADITIONAL CMAR TYPE PROJECT			
SS-I.1: Treatment Process Laboratory – Jar Testing	$16,000	--	$16,000
SS-I.2: Inclined Plate Settler and Low-Pressure Membrane Pilot	$622,000	***$184,000***	***$806,000***
SS-I.3: SWIFT Funding Assistance and Regulatory Requirements	$56,000	--	$56,000
SS-I.4: SWIFT Funding Assistance and SWIFT Regulatory Assistance Environmental Data Form	$53,000	--	$53,000
SS-I.5: High Service Pump Station System Curve Development	$49,000	--	$49,000
SS-I.6: Pump Station Physical Model	$220,000	--	$220,000
SS-I.7: Additional Services Per City Direction	$203,000	--	$203,000
Total Other Special Services	**$1,219,000**	***$184,000***	***$1,403,000***
TOTAL FEE			
TOTAL FEE	**$21,000,000**	***$184,000***	***$21,184,000***

Items shown in red, bolt, and italics are associated with this Amendment.

ARTICLE VII - DESIGNATED REPRESENTATIVES: FNI and City designate the following representatives:

Refer to the Agreement.

FNI____
OWNER____

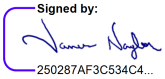
Certificate Of Completion

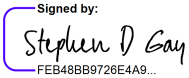
Envelope Id: F13DBC3F-DE7A-4351-B403-85B8AFAF72D0
Status: Sent
Subject: Please DocuSign: City Council Contract 7574-029 RRWTP Expansion Amendment 1
Source Envelope:
Document Pages: 7
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Erica Garcia
901B Texas Street
Denton, TX 76209
erica.garcia@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
10/21/2025 8:29:08 AM
Holder: Erica Garcia
erica.garcia@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Erica Garcia erica.garcia@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 10/21/2025 8:31:56 AM Viewed: 10/21/2025 8:32:06 AM Signed: 10/21/2025 8:32:37 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/21/2025 8:32:39 AM Viewed: 10/21/2025 9:39:54 AM Signed: 10/21/2025 9:40:23 AM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/21/2025 9:40:25 AM Viewed: 10/21/2025 6:42:13 PM Signed: 10/21/2025 6:47:19 PM
James Naylor james.naylor@freese.com Principal/Vice President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/21/2025 10:42:51 PM ID: a76d142c-bcb6-4bb9-b5d2-ace436954d32	 Signature Adoption: Uploaded Signature Image Using IP Address: 97.75.108.6	Sent: 10/21/2025 6:47:21 PM Viewed: 10/21/2025 10:42:51 PM Signed: 10/23/2025 1:33:37 PM

Signer Events	Signature	Timestamp
Stephen D Gay stephen.gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/23/2025 3:21:55 PM ID: 257b2c08-d883-4569-b106-9aa5d09b0e19	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 47.190.47.120 Signed using mobile	Sent: 10/23/2025 1:33:39 PM Viewed: 10/23/2025 3:21:55 PM Signed: 10/23/2025 3:23:05 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/23/2025 3:23:08 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex Ingrid.Rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/21/2025 8:32:39 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/23/2025 3:23:08 PM Viewed: 10/23/2025 4:35:39 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
David Brown David.Brown@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/2/2025 10:49:22 AM ID: ae29c722-3235-4146-98a2-e5c5378d30ca		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/21/2025 8:31:56 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

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How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

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To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

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- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Open Systems International, Inc., amending the contract approved by City Council on September 21, 2021, in the not to exceed amount of $1,500,000.00, said amendment to provide the renewal of maintenance, support, and upgrade services of OSI Monarch for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (File 7718 – providing for an additional first amendment expenditure amount not-to-exceed $193,973.00, with the total contract amount not-to-exceed $1,693,973.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Enhance Infrastructure and Mobility.

INFORMATION/BACKGROUND

Since 2008, Denton Municipal Electric (DME) has used Open System International's (OSI) Monarch's product for several critical operations. OSI Monarch is a control system that enables utilities to support, monitor, control, schedule, and optimize complex network operations. This includes 1) the monitoring and operation of its electric substations via a Supervisory Control and Data Acquisition (SCADA) system operated from its transmission & distribution (T&D) and Control Centers, 2) the facilitation of the purchase of electricity with energy market bid submittals to the Electric Reliability Council of Texas (ERCOT), and 3) the sharing of electric load and grid operation data with ERCOT and other third parties through Inter-Control Center Communications Protocol (ICCP).

This amendment is for continued maintenance and support of the SCADA system for one (1) year with OSI. Over the past several years, amendments have been approved and applied to this contract without increasing the not-to-exceed amount. The contract has reached its not-to-exceed amount and is approaching the contract end date. The additional module updates have contributed to the increased maintenance and support costs. Maintenance and Support includes the latest bug fixes, security updates needed for North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) compliance, as well as major feature enhancements, troubleshooting, and archiving and reporting capabilities. Early next year (2026), DME will start the process of renewing the sole source contract with OSI for continued maintenance and support of this critical application.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 21, 2021, City Council approved a contract with Open Systems International, Inc., in the not-to-exceed amount of $1,500,000 (Ordinance 21-1879).

RECOMMENDATION

Award Amendment No. 1 with Open Systems International, Inc., for the renewal of maintenance, support, and upgrade services of OSI Monarch for Denton Municipal Electric, in a not-to-exceed amount of $193,973, for a total amended contract amount of $1,693,973.

PRINCIPAL PLACE OF BUSINESS

Open Systems International, Inc.
Medina, MN

ESTIMATED SCHEDULE OF PROJECT

This contract expires September 21, 2026.

FISCAL INFORMATION

These services will be funded from Operating Budget account 600750.7899. Requisitions will be entered on an as-needed basis. The total amended amount of this contract is $1,693,973.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment 1

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Jerry Looper, 940-349-7676.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 21-1879

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH OPEN SYSTEMS INTERNATIONAL, INC., FOR THE RENEWAL OF MAINTENANCE, SUPPORT, AND UPGRADE SERVICES OF OSI MONARCH FOR DENTON MUNICIPAL ELECTRIC, WHICH IS THE SOLE PROVIDER OF THIS SOFTWARE, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER $50,000 SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 7718 – AWARDED TO OPEN SYSTEMS INTERNATIONAL, INC., IN THE FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $1,500,000.00).

WHEREAS, Section 252.022 of the Local Government Code provides that procurement of items that are only available from one source, including, items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and need not be submitted to competitive bids; and

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the "File" listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

FILE NUMBER	VENDOR	AMOUNT
7718	Open Systems International, Inc.	$1,500,000.00

SECTION 2. The City Council hereby finds that this bid, and the award thereof, constitutes a procurement of items that are available from only one source, including, items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and need not be submitted to competitive bids.

SECTION 3. The acceptance and approval of the above items shall not constitute a contract between the City and the person submitting the quotation for such items until such person shall comply with all requirements specified by the Purchasing Department.

SECTION 4. The City Manager, or their designee, is hereby authorized to execute the contract relating to the items specified in Section 1, attached hereto, and the expenditure of funds pursuant to said contract is hereby authorized.

SECTION 5. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Brian Beck and seconded by Alison Maguire. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	✓			
Vicki Byrd, District 1:	✓			
Brian Beck, District 2:	✓			
Jesse Davis, District 3:	✓			
Alison Maguire, District 4:	✓			
Deb Armintor, At Large Place 5:	✓			
Paul Meltzer, At Large Place 6:	✓			

PASSED AND APPROVED this the 21st day of September, 2021.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY:

CITY OF DENTON
DENTON, TEXAS

APPROVED AS TO LEGAL FORM:
CATHERINE CLIFTON, INTERIM CITY ATTORNEY

BY: Marcella Lunn

Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2021.08.30 16:14:24 -05'00'

DocuSign Envelope ID: 4D9B0E47-CCDB-4DF0-A4B8-066765092E57

Docusign City Council Transmittal Coversheet

FILE	7718
File Name	OSI Renewal and Upgrade
Purchasing Contact	Cori Power
City Council Target Date	SEPTEMBER 21, 2021
Piggy Back Option	Not Applicable
Contract Expiration	SEPTEMBER 21, 2026
Ordinance	21-1879

DS
LH

DocuSign Envelope ID: 4D9B0E47-CCDB-4DF0-A4B8-066765092E57

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND OPEN SYSTEMS INTERNATIONAL, INC.
(CONTRACT 7718)

THIS CONTRACT is made and entered into this date 09/21/2021, by and between Open Systems International, Inc., a Minnesota corporation, whose address is 4101 Arrowhead Drive, Medina, MN 55340, hereinafter referred to as "Contractor" or "OSI," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City" or "Customer," 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

Contractor shall provide products and/or services in accordance with the Renewal of Maintenance, Support and Upgrade Services of OSI Monarch for Denton Municipal Electric. The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) OSI Standard Terms and Conditions, Quotes, and Software License Agreement **(Exhibit "B");**
(c) Insurance Requirements **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "E");**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel
Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or 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

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business with Iran, Sudan, or a foreign terrorist organization. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this agreement and will not become ineligible to receive payments under this agreement by doing business with Iran, Sudan, or a foreign terrorist organization***. Failure to meet or maintain the requirements under this provision will be considered a material breach.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

CONTRACTOR

BY: DocuSigned by: Al Eliasen 1C1A6B67D1270413...
AUTHORIZED SIGNATURE

Printed Name: Al Eliasen

Title: President

763-404-4429
PHONE NUMBER

Al.Eliasen@osii.com
EMAIL ADDRESS

--
TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: DocuSigned by: Sara Hensley 5236DB2967D428...
SARA HENSLEY, INTERIM CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: DocuSigned by: Rosa Rios 1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
CATHERINE CLIFTON, INTERIM CITY ATTORNEY

BY: DocuSigned by: Marcella Lunn 4B070831B4AA438...

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational obligations
and business terms.

DocuSigned by: Leisha Meine D60D1F71D4D4D5...
SIGNATURE

Leisha Meine
PRINTED NAME

Chief Technology Officer
TITLE

Technology Services
DEPARTMENT

Contract # 7718

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Exhibit A
Special Terms and Conditions

1. Total Contract Amount
The contract total for services shall not exceed $1,500,000. Pricing shall be per Exhibit B attached.

2. The Quantities
The quantities indicated in Exhibit B are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms
The contract term will be five (5) years, effective from date of award or notice to proceed as determined by the City of Denton Purchasing Department. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Price Escalation and De-escalation
On Supplier's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. Any request for price adjustment must be based on the, U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) or the manufacturer published pricing list. The maximum escalation will not exceed +/- 8% for any individual year. The escalation will be determined annually at the renewal date. The price will be increased or decreased based upon the annual percentage change in the PPI or the percentage change in the manufacturer's price list. Should the PPI or manufacturer price list change exceed a minimum threshold value of +/-1%, then the stated eligible bid prices shall be adjusted in accordance with the percent change not to exceed the 8% limit per year. The supplier should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

Request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to contract expiration of each year. Respondent must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

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The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

5. Payment
In accordance with Chapter 2251 of the Texas Gov't Code: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or services, or (iii) delivery of an invoice to City; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Invoices and any required supporting documents must be presented to: City of Denton – Purchasing Department, 901 B Texas Street, Denton, TX 76201.

6. Tax Exempt
No taxes shall be included in the invoice. City is exempt from the payment of taxes and the purchase order serves as the required exemption certificate for tax exemption. The City will provide other exemption certificates or documentation confirming its tax-exempt status as requested.

7. Governing Law and Venue
The Contract, exclusive of OSI's Software License Agreement Exhibit B Part B, shall be construed and enforced under and in accordance with the laws of the State of Texas. Venue for all issues arising from or related to the Contract, except for any issues arising from or related to the Software License Agreement Exhibit B Part B, shall be resolved in the courts of Denton County, Texas, and the parties agree to submit to the exclusive jurisdiction of such courts.

8. No Excess Obligations
In the event the Contract spans multiple fiscal years, the City's continuing performance under the Contract is contingent upon the appropriation of funds to fulfill the requirements of the Contract by the City Council of the City of Denton. If the City Council of the City of Denton fails to appropriate or allot the necessary funds, City shall issue written notice to Contractor that City may terminate the Contract for convenience pursuant to the terms and conditions in Contract Exhibit B.

9. Delivery.
Delivery shall be FOB Destination.

10. Public Information and Record Retention
City shall release information in accordance with the Texas Public Information Act, Tex. Gov't Code Chapter 552, and other applicable law or court orders. If requested, Contractor shall make public information available to City in an electronic format, and any portions of records claimed by the Contractor to be proprietary must be clearly marked as such. The City is also subject to certain record retention obligations under the laws of the State of Texas and its record retention policy. The Contractor recognizes that City will need to retain access to certain records in accordance with these obligations.

11. Insurance
City is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by City shall, without further requirement, satisfy all insurance obligations of City under the Contract.

11. INDEMNITY

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INDEMNIFICATION IS SET FORTH IN EXHIBIT B. Nothing in this Exhibit A shall be construed to create a liability to any person who is not a party to this Exhibit A, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to this Contract, including the defense of governmental immunity, which defenses are hereby expressly reserved.

12. Limitations

City is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Contract, which may include those terms and conditions relating to: liens on City property; disclaimers and limitations of warranties; disclaimers and limitation of liability for damages; waivers, disclaimers, and limitation on litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on City, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

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Exhibit B

OSI STANDARD TERMS AND CONDITIONS

Effective Date: 09/21/2021 ("Effective Date")

Customer Name: City of Denton ("Customer")

Customer Address: 215 E. McKinney Street, Denton, Texas76201 ("Facility")

This Services Contract ("Contract") is between Open Systems International, Inc., with offices at 4101 Arrowhead Drive, Medina, Minnesota, USA 55340-9457, ("OSI") and Customer.

A. Customer desires to purchase/license the products listed in Part B, List of Deliverables (the "Products") and the services listed in Part A, Price Forms/Quotes (the "Services") (together collectively referred to as the "Work"), which may include but not be limited to, OSI proprietary software ("Software"), third-party software, hardware, other equipment, and OSI engineering and development services, to be installed at the Customer Facility in accordance with the terms of the attached Contract documents and operating pursuant to the OSI Software License Agreement (Part B). As used in this Contract, "Parts" refers to the individual attachments to and part of this Contract each of which is included as a specific element of this Contract. All of these Parts are identified and listed in Section 2, below.

B. The parties have agreed upon the definitive terms, conditions, prices, equipment, specifications, and procedures setting forth their agreement for the purchase/licensing by Customer of the Products and Services to be furnished by OSI.

The parties agree as follows:

1. **Scope of Contract.** OSI agrees to furnish the Work, including installation and testing of same, in a good and workmanlike manner in accordance with the terms, conditions and provisions of this Contract.

2. **Contract Documents.** This Contract consists of these Standard Terms and Conditions and the attached Parts listed below. In the event of any conflict or discrepancy between the Standard Terms and Conditions and/or any of the listed Parts, the Standard Terms and Conditions, shall control, then the following order of precedence shall apply:

Part	Document Name/Description
Part A	Price Forms/Quotes
Part B	OSI Software License Agreement

3. **Pricing.** The Price Forms in Part A states the prices payable and manner in which payment is to be made by Customer for the Work furnished under this Contract. All prices are stated exclusive of any sales, use or value added tax of any kind and shipping charges. Unless paid directly by Customer, applicable taxes and shipping charges will be added to the prices stated and invoiced directly to Customer. Payment terms are net 30 days.

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4. **Milestones.** For the Work delivered, Customer shall pay OSI upon the milestones shown in Part A, Price Quotes.

5. **Change Orders.** The Terms of this Contract, including but not limited to, Price, Deliverables and Schedule, among others, may only be modified or amended by mutually agreed, written Change Orders executed by both parties. Change Orders shall have precedence over any conflicting Contract documents.

6. **Warranties.** OSI will provide to or pass through to Customer the following warranties:

   OSI Software. In addition to the warranty provided under the OSI Software License Agreement, defects in the OSI Software shall be resolved as part of OSI's support program, provided Customer has elected to purchase software support pursuant to the Price Forms, Part A. OSI's obligation under a selected Software support program shall be to repair any defects in the Software.

   Third-party Hardware and Software. OSI will pass through to Customer all standard OEM warranties on all third-party hardware and software supplied by OSI (if any). The minimum term of OEM warranties is as identified by the individual manufacturer(s).

   The warranties provided herein are exclusive and in lieu of all other warranties, and there are no other warranties, express or implied, about merchantability or fitness for a particular purpose or anything else for any goods, documentation or services.

7. **Software License Agreement.** Customer agrees to execute OSI's standard Software License Agreement concurrently with this Contract. All use and operation of the Software shall be pursuant to and governed by the Software License Agreement. If this Contract is terminated by either party prior to complete performance, acceptance and payment hereunder, the Software license granted under this Contract shall be immediately revoked.

8. **Limitation of Liability.** Neither party shall be liable, whether in contract, warranty, tort (including negligence), strict liability, indemnity or any other legal theory, for indirect, special, incidental or consequential damages, however caused, including but not limited to any such damages arising out of the delivery, use or operation of the Software or other Deliverables, delays in delivery or repair, loss of use of the Software or other Deliverables, or damage to any documents, data or other property of the parties, loss of revenue or profit; for costs of capital or of substitute use or performance; or for any other loss or cost of a similar type; or for claims by either party for damages claimed by the other party's customers. The maximum liability under this Contract for damages or losses for direct, compensatory or similar damages shall not exceed double the amount of the total of all sums paid or payable by Customer to OSI prior to the date on which the act or omission giving rise to the claim arose.

   Both parties agree that the exclusions and limitations set forth in this Section 8 do not preclude either party from obtaining equitable or injunctive relief or pursuing others who may be responsible for some or all of the losses incurred. Nothing herein limits the right of OSI to make a claim to collect payments due for Work performed under this Contract.

9. **Non-Solicitation of Employees.** Neither party shall, during the term of this Contract and for a period of 24 months thereafter, solicit or offer employment knowing such person was subject to this non-solicitation provision to any person who is or was an employee of the other party during the 24 months preceding such solicitation or offer and with whom such party had substantial contact in the course of the performance of the parties' obligations under this Contract.

   OSI declares and Customer acknowledges that OSI has strict Confidentiality/Non-Disclosure Agreements with its employees which may bar a former employee from working directly on an OSI system owned or controlled by a customer following the termination of that employee's employment with OSI.

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10. **Confidentiality.** Each party agrees that should a party (the "Disclosing Party") share information with the other party (the "Receiving Party") which is designated or marked as proprietary or confidential, or information which, under the circumstances surrounding disclosure ought to be treated as confidential by the Receiving Party (hereinafter "Confidential Information"), the Receiving Party shall not disclose this Confidential Information to anyone or use this Confidential Information for any purpose independent of the fulfillment of this Contract. The Receiving Party shall not use any Confidential Information to the detriment of the Disclosing Party and shall use efforts to protect the confidentiality of any such Confidential Information commensurate with those which it employs to protect its own Confidential Information. The Receiving Party will ensure that it enters into agreements with employees, consultants, agents, shareholders and any other who have or may obtain access to the Confidential Information to maintain such Confidential Information in confidence. Confidential Information shall not include information which is: a) rightfully in the possession of or known to the Receiving Party prior to the disclosure without an obligation to maintain its confidentiality, b) publicly known or becomes publicly known through no unauthorized act of the Receiving Party, c) rightfully received by the Receiving Party from a third party without obligation of confidentiality, or d) independently developed by or for the Receiving Party.

    In the event the Receiving Party receives a subpoena or other validly issued administrative or judicial process demanding the production of Confidential Information previously provided by the Disclosing Party, the Receiving Party shall promptly notify the Disclosing Party of this fact and tender the defense of or opposition to this subpoena or demand to the Disclosing Party. If the subpoena or demand is not timely limited, quashed or extended, the Receiving Party shall thereafter be entitled to comply with such subpoena or demand to the extent required by law. If requested by the Disclosing Party after the tender of defense or opposition is accepted, the Receiving Party shall cooperate in such defense or opposition at the expense of the Disclosing Party.

    These confidentiality rights and obligations shall apply to all Confidential Information provided by either party at any time before or after execution of this Contract and shall survive completion or termination of this Contract for any reason. Each party shall have a continuing obligation to ensure that it does not disclose the other party's Confidential Information publicly or to any impermissible third parties or use that Confidential Information for purposes other than those intended under this Contract without the other party's express consent as long as the Confidential Information remains a trade secret, critical infrastructure information or personally identifiable information under the applicable governing laws of this Contract and has not been published or placed in the public domain by means other than as the result of a disclosure in breach of this Contract.

    OSI acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. All material submitted by OSI to the City of Denton shall become property of the City upon receipt. Any portions of such material claimed by OSI 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*.

11. **Schedule.** The Services covered by this Contract shall be completed in accordance with the mutually agreed upon project schedule. If the acts or omissions of any party causes the project to fall behind the project schedule the parties shall meet to discuss the actions necessary to recover schedule and each shall cooperate with such actions unless the parties mutually agree to a revised project schedule.

12. **Risk of Loss.** Customer is not required to accept the Work until 3 days after completion of Site Acceptance Testing, to allow for inspection ,if any is required under this Contract. Notwithstanding any other language in this Contract, including any of the attached Parts, the risk of loss for OSI supplied hardware shall pass to Customer no later than when the equipment reaches Customer's dock. Customer shall insure all equipment delivered by OSI from the time the equipment is received at Customer's dock until the completion of the project performed under this Contract.

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13. **Insurance.** Insurance shall meet the requirements of Exhibit C hereto and the terms of the Special Terms and Conditions under this Contract.

14. **Disputes.** Either party may pursue emergency equitable or injunctive relief where necessary to prevent irreparable harm for which damages or other remedies at law may be inadequate. Otherwise, disputes arising out of or relating to this Contract and not resolved in the normal course of business shall be resolved as follows: a.) the claimant shall provide written notice of the dispute and claimant's desired remedy to the other party; b.) executives authorized to resolve the dispute shall meet and attempt in good faith to resolve such dispute by negotiations; c.) if negotiations are unsuccessful, the dispute shall be referred to arbitration by a sole arbiter in accordance with the American Arbitration Association Rules for Commercial Disputes. The arbiter shall have substantial expertise in information technology disputes and may allow reasonable discovery and expert testimony and issue a reasoned opinion as part of any arbitration award. The place of arbitration will be Denton, Texas . The language to be used in the arbitral proceedings will be English. Judgment upon the award rendered by the arbiter may be entered by any court having jurisdiction. The laws of the State of Texas, United States of America, shall govern the validity, interpretation and enforcement of this Contract.

15. **Indemnification.** OSI will indemnify and hold harmless Customer (including its affiliates, and all directors, officers and employees), as indemnitee(s), against any and all third party claims, liabilities, legal actions, costs and expenses, including reasonable legal fees, to the extent caused by the indemnitor's negligence or intentional misconduct in connection with the performance of this Contract by indemnitor, its agents or employees, and shall, upon indemnitee's request, defend at its sole cost any suit asserting a third party claim covered by this indemnity. The indemnitee shall give written notice to the indemnitor of any claim under this Section.

16. **Force Majeure.** Except for Customer's obligations to pay the fees due under this Contract, neither party shall be considered in default in the performance of its obligations under this Contract to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of the affected party such as acts of God (including hurricanes, major natural disasters), regulations or orders of governmental authorities, fire, flood, explosion, acts of terrorism, war, disorder, civil disaster, or other emergency. If either party claims that performance of its obligations was prevented or delayed by any such cause, that party shall promptly notify the other party of that fact, and of the circumstances preventing or delaying performance, within five (5) business days.

17. **No Assignment.** Neither party may assign or otherwise transfer its rights or obligations under this Contract except with the written consent of the other party, which will not be unreasonably withheld. Any prohibited assignment will be null and void. Notwithstanding the foregoing, OSI may assign its obligations under this Contract to a parent, subsidiary or holding company for the purposes of ownership restructuring, or in connection with a merger or other business combination in which OSI is not the surviving entity.

18. **Term and Termination.** Unless terminated as provided for herein, this Contract becomes effective on the Effective Date and will continue until the deliverables set forth in the List of Deliverables are provisioned. Customer may terminate for convenience following 30 days written notice and payment of all fees due to OSI. This Contract may be terminated immediately upon notice to the breaching party if (i) either party materially breaches the terms of this Contract and fails to cure such breach within forty-five (45) days of receipt of written notice of such breach; (ii) if either party becomes insolvent or files a petition of bankruptcy; or (iii) if Customer fails to pay any invoice due and payable for more than ninety (90) days after receiving written notice that such invoice is overdue. Seller acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. Subject to the laws of the State of Texas and without waiving any applicable immunity, the absence of appropriated or other lawfully available funds shall not relieve Buyer of its payment obligations for any deliverables delivered but unpaid. The Buyer will not enter into any Contract unless it has secured such funding, and in the event that Buyer secures

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funding and enters into a contract, but loses such funding then Buyer's only remedy shall be the same as if the Contract is terminated for convenience under this Section 18.

19. **Survival.** Sections 7, 8, 9 10, 12, 14, 15, and any other sections that, by their terms, extend beyond the Term of this Contract survive termination of this Contract for any reason; provided that such provisions terminate within the time frame specified by any such provision.

20. **Complete Agreement.** Each party acknowledges that it has read and understands this Contract and agrees to be bound by its terms. The parties further agree that this Contract and its accompanying Parts, is the complete and exclusive statement of this Contract between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties. Any terms and conditions included in any purchase order shall be of no force and effect, and shall not in any way be deemed to amend, modify, supersede or supplement this Contract. This Contract may not be modified or altered except by written instrument duly executed by both parties.

21. **Waiver.** The waiver or failure of either party to exercise in any respect any right provided for herein will not be deemed a waiver of any other right hereunder.

22. **Severability.** If any provision of this Contract is invalid, illegal or unenforceable under any applicable statute or rule of law, only that provision is to be deemed omitted, and the remaining provisions will not be affected in any way.

23. **Counterparts.** This Contract may be executed in counterparts, all of which when executed and delivered, will constitute one single agreement between the parties.

The parties are signing this Contract as of the Effective Date.

OPEN SYSTEMS INTERNATIONAL, INC.		**CUSTOMER**	
BY:	DocuSigned by: Al Eliasen DC6867A0120041B... (Signature)	BY:	DocuSigned by: Sara Hensley 5236DB296270423... (Signature)
NAME:	Al Eliasen	NAME:	Sara Hensley
TITLE:	President	TITLE:	INTERIM CITY MANAGER
DATE:	8/27/2021	DATE:	09/21/2021

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Part A – Price Quotes (attached)

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OSI

PART A

QUOTATION

Quote Number: 27981
Reference: DME2021-Q04-Rev2

Quote To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

OSI Sales Contact:
Name: TJ Kellner
Phone: 763-404-4168
Email: TJ.Kellner@osii.com

Date:
5/5/2021
Valid Until:
7/4/2021

Attention:
Larry Collier
(940) 349-7000
Larry.Collier@cityofdenton.com

Quote Description:
SCADA T&D System Upgrade

Description	Qty	Unit Cost	Unit	Extended Cost
Base Quote: System Upgrade				
Third Party Hardware				
Customer Furnished Host Server Type 1 Hosting at PCC: - SCADA/HIS VM - ICCP VM	1	0.00	EA	US$ 0.00
Customer Furnished Host Server Type 2 Hosting at PCC: - Corp VM	1	0.00	EA	US$ 0.00
Customer Furnished Host Server Type 3 Hosting at PCC: - QAS VM - OTS VM	1	0.00	EA	US$ 0.00
Customer Furnished Host Server Type 4 Hosting at BCC: - BSCADA/HIS VM - BICCP VM	1	0.00	EA	US$ 0.00
Customer Furnished Host Server Type 5 Hosting at BCC: - BCorp VM	1	0.00	EA	US$ 0.00
Customer Furnished Third Party Hardware All Other Third Party Hardware (i.e. Cabinets, Firewalls, Network switches, KVM Tray, KVM Switch, GPS Clock, etc.)	1	0.00	LOT	US$ 0.00
Third Party Hardware Subtotal:				**US$ 0.00**
OSI Software				
monarch Software Upgrade License Free-of-Charge with Gold Support	1	0.00	EA	US$ 0.00
OpenSTLF Migration to OSI Forecast License - Regression - Weather based - Neural Network Free-of-Charge Replacement-in-Kind	1	0.00	EA	US$ 0.00
OSI Maintenance Center Standard License Features Include: - Job Deployment Management - Web Platform Product Configuration Management - Configurable Workflow/Approval Processes - Unified Audit Trail Free-of-Charge	1	0.00	EA	US$ 0.00

OSI

QUOTATION

Quote Number: 27981

Reference: DME2021-Q04-Rev2

Description	Qty	Unit Cost	Unit	Extended Cost
OpenSCADA License Expansion 10,000 Additional Status Point (From 40,000 to 50,000)	1	35,000.00	EA	US$ 35,000.00
OpenFEP License Expansion 10,000 Additional Telemetered Point (From 60,000 to 70,000) - Free-of-Charge with OpenSCADA License Expansion	1	0.00	EA	US$ 0.00
OSI Software Subtotal:				**US$ 35,000.00**
Third Party Software				
Customer Furnished Third Party Software All Third Party Software (i.e. OS, Backup/Restore, Antivirus, Tripwire, etc.)	1	0.00	LOT	US$ 0.00
Third Party Software Subtotal:				**US$ 0.00**
Project Implementation				
System Upgrade Implementation At OSI: - Project Management and Coordination - Project Engineering and Design - NERC CIP Baseline Documentation of System Ports, Users, and Services Necessary for Upgraded System Operation - NERC CIP Hardening and Patching of Operating Systems and Applicable Third Party Software at Initial Installation and Prior to Delivery - Cyber Security Evaluation of Network Modifications Required for Upgrade - Configuration and Restriction of Access Control Policies for Applicable Firewall Equipment - VM Creation - Software Installation and Configuration - Database and Display Conversion and Integration - Factory Q/A Testing - VM Export - Remote Networking Integration Assistance - Post-Cutover Problem Resolution and Assistance - System Documentation Updates At DME: - VM Integration - Site Testing - Cutover Preparation - Feature Differences Operator Training Session - Execute Cutover	1	117,200.00	EA	US$ 117,200.00
Project Implementation Subtotal:				**US$ 117,200.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	5,250.00	EA	US$ 5,250.00
monarch™ Support Adders Subtotal:				**US$ 5,250.00**
			Total:	**US$ 157,450.00**

Open Systems International Inc.
4101 Arrowhead Drive, Medina MN 55340-9649
Phone: (763) 551-0559 Fax: (763) 404-4007
email: info@osii.com https://www.osii.com

OSI

QUOTATION

Quote Number: 27981

Reference: DME2021-Q04-Rev2

Description	Qty	Unit Cost	Unit	Extended Cost
Option #1: Site Acceptance Testing (SAT)				
Project Implementation				
Site Acceptance Testing At OSI: - SAT Preparation Activities - Post-SAT System Documentation Updates At DME: - 3-Days for Formal Site Acceptance Testing - SAT Cleanup and Commissioning Preparation	1	29,360.00	EA	US$ 29,360.00
Project Implementation Subtotal:				**US$ 29,360.00**
Option #1 Total:				**US$ 29,360.00**
Option #2: CHRONUS Addition				
Third Party Hardware				
Customer Furnished Physical Host Server Type 1 Hosting: (1) CHRONUS VM @PCC on DMZ LAN - (2) Intel Xeon 2.1GHz 8-Core HT - 128 (4x32GB) GB RAM RDIMM, 3200MT/s - 2.5" Chassis with up to 16 Drives - 1.6TB (2x800GB) SSD SAS Write Intensive Raid1 - 7.68TB (5x1.92TB) SSD SATA Read Intensive Raid 5	1	0.00	EA	US$ 0.00
Customer Furnished Physical Host Server Type 2 Hosting: (1) CHRONUS VM @BCC on DMZ LAN - (2) Intel Xeon 2.1GHz 8-Core HT - 128 (4x32GB) GB RAM RDIMM, 3200MT/s - 2.5" Chassis with up to 16 Drives - 1.6TB (2x800GB) SSD SAS Write Intensive Raid1 - 7.68TB (5x1.92TB) SSD SATA Read Intensive Raid 5 + 1 Hot Spare 1.92TB SSD	1	0.00	EA	US$ 0.00
Customer Furnished Third Party Hardware All Other Third Party Hardware (i.e. Cables, Cabinets, Firewalls, Network Switches, KVM Tray, KVM Switch, GPS Clock, etc.)	1	0.00	LOT	US$ 0.00
Third Party Hardware Subtotal:				**US$ 0.00**
OSI Software				
CHRONUS Enterprise License - 7,500 Points - 2 Servers: - Non-Redundant Server on PCC SCADA LAN - Non-Redundant Server on BCC SCADA LAN - Up to 10 Concurrent Users - OpenView Interface - Playback Capabilities - OSI Excel Plug-In Interface - ODBC Interface (Can be used with Power BI)	1	48,500.00	EA	US$ 48,500.00
OSI Software Subtotal:				**US$ 48,500.00**

Open Systems International Inc.
4101 Arrowhead Drive, Medina MN 55340-9649
Phone: (763) 551-0559 Fax: (763) 404-4007
email: info@osii.com https://www.osii.com

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QUOTATION

Quote Number: 27981
Reference: DME2021-Q04-Rev2

Description	Qty	Unit Cost	Unit	Extended Cost
Third Party Software				
Customer Furnished Third Party Software All Other Third Party Software	1	0.00	LOT	US$ 0.00
Third Party Software Subtotal:				**US$ 0.00**
Project Implementation				
CHRONUS Implementation At OSI: - Additional Project Management and Coordination - Additional Project Engineering and Design - VM Configuration and OS Build - Additional Software Installation and Configuration - Factory Q/A Testing - VM Export and Remote Integration Assistance - Post-Commissioning Problem Resolution and Assistance - System Documentation Updates At DME: - Additional Site Integration and Configuration - Additional Site Testing - Operator Training	1	45,280.00	EA	US$ 45,280.00
Project Implementation Subtotal:				**US$ 45,280.00**
Training				
Training - Units Sufficient for One Attendee of the Following OSI-U Courses: - S120: CHRONUS Report Building - S236: CHRONUS Administration	2	545.00	UNITS	US$ 1,090.00
Training Subtotal:				**US$ 1,090.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	7,275.00	EA	US$ 7,275.00
monarch™ Support Adders Subtotal:				**US$ 7,275.00**
Option #2 Total:				**US$ 102,145.00**
Option #3: OpenLSR Addition				
OSI Software				
OpenLSR (Load Shed and Restoration) License	1	30,000.00	EA	US$ 30,000.00
OSI Software Subtotal:				**US$ 30,000.00**
Project Implementation				
OpenLSR Implementation At OSI: - Additional Project Management and Coordination - Additional Project Engineering and Design - Remote Implementation and Testing - Database Configuration Assistance for Up to 10 Breakers/Load Devices - Post-Installation Support and Q/A	1	18,240.00	EA	US$ 18,240.00
Project Implementation Subtotal:				**US$ 18,240.00**

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QUOTATION

Quote Number: 27981
Reference: DME2021-Q04-Rev2

Description	Qty	Unit Cost	Unit	Extended Cost
Training				
Training - Units Sufficient for One Attendee of the Following OSI-U Course: - S270: Load Shed and Restoration	1	545.00	UNITS	US$ 545.00
Training Subtotal:				**US$ 545.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	4,500.00	EA	US$ 4,500.00
monarch™ Support Adders Subtotal:				**US$ 4,500.00**
Option #3 Total:				**US$ 53,285.00**
Option #4: Report Studio Addition				
OSI Software				
OSI Report Studio (Report Design, Scheduling and Viewing Tool) License 2 Servers (1 @PCC, 1 @BCC) 25 Concurrent Users (Up to 15 OpenView Users and 10 External Web Users)	1	30,000.00	EA	US$ 30,000.00
OSI Software Subtotal:				**US$ 30,000.00**
Project Implementation				
Report Studio Implementation At OSI: - Additional Project Management and Coordination - Additional Project Engineering and Design - Remote Implementation and Testing - Post Installation Support and Q/A	1	27,360.00	EA	US$ 27,360.00
Project Implementation Subtotal:				**US$ 27,360.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	4,500.00	EA	US$ 4,500.00
monarch™ Support Adders Subtotal:				**US$ 4,500.00**
Option #4 Total:				**US$ 61,860.00**

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email: info@osii.com https://www.osii.com

OSI

QUOTATION

Quote Number: 27981

Reference: DME2021-Q04-Rev2

Customer Address Info:

Bill To:
City of Denton, Texas
215 E McKinney St
Denton TX 76201-4299
USA

Ship To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

Payment Terms:
Net 30 Days

Milestone Payment Details:
10% Upon Quote Acceptance
15% Upon Project Kickoff
25% Upon Completion of Q/A Testing
25% Upon Completion of Site Training (or SAT, if Option 1 is Selected)
25% Upon Project Cutover

Special Terms and Conditions:

1. Quoted disk sizing assumes CHRONUS archival of 7,500 points with a 50% change rate every 2 seconds with 2 years of historical data available online.
2. Any VM host hardware or standalone hardware supplied by DME must be compliant with monarch™.NET minimum requirements as follows:

Minimum Host Server Per VM Instance*:
- CPU: 4 Physical Cores (8 Threads)
- RAM: 16GB**
- Disk IOPS: 100
- OS: Windows Server 2016, 2019, or RedHat Enterprise Linux 7

Recommended Host Server Per VM Instance*:
- CPU: 8 Physical Cores (16 Threads)
- RAM: 32GB**
- Disk IOPS: 200
- OS: Windows Server 2016, 2019, or RedHat Enterprise Linux 7, 8

Server
- Xeon CPU: Dual Six-Core 2.3GHz and above
- RAM: 32+GB
- OS: Windows Server 2016, Windows Server 2019, RedHat Enterprise Linux 7

Workstation
- CPU: Single Quad-Core 2.8GHz and above
- RAM: 16+GB
- OS: Windows 10 64-bit
- Video Card: FirePro WX4100 4GB or better**

*Quantities are additive, per VM (e.g. a host with 5 VMs will require 5x quantities shown). This does not reflect how to configure the VMs within the hypervisor; it is only a guideline for how to size the host hardware.
**In addition to indicated per VM RAM quantities, another 16GB RAM is required for the Hypervisor component.

3. DME will provide all third party hardware, software (such as backup/archival software), licensing, and configuration not specifically mentioned in this quote.
4. If required, DME will handle any custom display and database work, and will test and verify all external links and interfaces.
5. DME will send OSI requisite third party licensing for VM creation at our factory.
6. DME will provide high-speed remote access to server and console hardware, if needed (VPN, Remote Desktop Connection, etc.). Dial-up modem connections are insufficient.
7. DME will be responsible for configuration of corporate or external facing firewalls, if applicable.
8. DME will provide sufficient cabinet space and cabling for new hardware. If DME is not able to provide this, additional cabinets and/or cables can be quoted separately.
9. A feature differences operator review session is included but limited to a brief hands-on, informal session. Additional training can be quoted separately as needed.
10. Option 4 for Report Studio is dependent upon the acceptance of Option 2 for CHRONUS.

QUOTATION

Quote Number: 27981
Reference: DME2021-Q04-Rev2

Standard Terms and Conditions

1. All quoted prices are in US Dollars ($), unless otherwise stated.
2. Travel and associated administrative costs are not included in this quote, and will be billed as incurred, unless otherwise stated.
3. Customer shall pay all applicable shipping and tariffs, unless otherwise stated.
4. Quoted price does not include applicable taxes, unless otherwise stated.
5. OSI will schedule all work upon receipt of the Customer's written acceptance, subject to OSI's resource availability.
6. Training, if applicable, will be provided at OSI's facility, unless otherwise stated.
7. Training Units may be used for up to 18 months from the date of purchase; any remaining unused Units will expire thereafter. One Training Unit is equivalent to one student attending one day of instruction for OSI University courses in Minneapolis (including Web-U courses).
8. Customer shall provide all relevant system information required for the work as needed (i.e. databases, displays, reports, IP addresses, networking information, RTU channel information, etc.) and shall be responsible for all delays caused by Customer's failure to do so in a timely manner.
9. Customer will have dedicated personnel available to assist OSI in the work, unless otherwise stated.
10. All third-party hardware purchased as part of this quote carries a standard OEM warranty, unless otherwise stated. All OSI hardware purchased as part of this quote carries a one-year warranty against defects from date of delivery, unless otherwise stated.
11. OSI does not guarantee that third-party goods will be available at time of quote acceptance. If third-party goods are not available, upon Customer's authorization, OSI will provide suitable replacements and bill any resulting cost differences to the Customer. Failure to timely authorize replacements may result in delays and/or need to re-quote.
12. When applicable, Customers subscribing to Gold or above Support Plans may be entitled to new software version updates without charge. With the exception of Diamond Plan subscribers, the Customer will be responsible to pay for any engineering services required to implement the software upgrades.
13. Unless otherwise agreed and quoted, Customer is responsible for all preparations for OSI's installation of software, hardware or services and any post-installation compatibility testing and compliance issues.
14. Customer will provide adequate environmental and power conditions onsite, unless otherwise stated.
15. Cutover is defined as the quoted functionality being operational with no outstanding critical incidents.
16. Any Quote(s) for system upgrade services require(s) that at the time of actual implementation Customer has a valid premium monarch™ Support plan which includes software upgrade privileges and that the system size or scope does not change dramatically between the issuance of the quote and implementation of the service.
17. Customer Furnished Hardware and Software: Customer shall provide all required third-party equipment and software ("CFE") for the Project except for the OSI-provided equipment identified in this quote. Customer shall be responsible to timely deliver all CFE to OSI in compliance with the mutually agreed upon Project Schedule for integration with the OSI software. Customer shall pay all shipping and insurance costs both to and from OSI and shall be responsible for all CFE warranties.
18. Export Controls:
18.1. Customer represents: It is not a citizen, national, or resident of, and is not under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, nor any country to which the United States has prohibited export and that it is not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor is it listed on the United States Department of Commerce Table of Denial Orders.
18.2. Customer agrees that it will not export or re-export the Product(s), directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries nor to any entity so listed on any of the above mentioned lists.
18.3. Customer agrees that it will not use the Product(s) for, and will not allow the Product(s) to be used for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.
18.4. The requirements of 18.2 and 18.3 above apply to all Product(s) purchased or licensed to Customer from OSI, whether included in this quote or purchased or licensed previously.

Notice: OSI's quote is based upon Customer's acceptance of all applicable Terms and Conditions. Requests for additions to, deletions of, or different Terms and Conditions, may require a revised quote and/or additional costs or schedule delays.

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DocuSign Envelope ID: 4D9B0E47-CCDB-4DF0-A4B8-066765092E57

QUOTATION

Quote Number: 27983
Reference: DME2021-Q05-Rev1

Quote To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

OSI Sales Contact:
Name: TJ Kellner
Phone: 763-404-4168
Email: TJ.Kellner@osii.com

Date:
5/5/2021
Valid Until:
7/4/2021

Attention:
Larry Collier
(940) 349-7000
Larry.Collier@cityofdenton.com

Quote Description:
GMS Upgrade and CHRONUS Addition

Description	Qty	Unit Cost	Unit	Extended Cost
Base Quote: GMS Upgrade				
OSI Software				
monarch Software Upgrade License	1	0.00	EA	US$ 0.00
Free-of-Charge with Gold Support				
OSI Maintenance Center Standard License	1	0.00	EA	US$ 0.00
Features Include: - Job Deployment Management - Web Platform Product Config Management - Configurable Workflow/Approval Processes - Unified Audit Trail Free-of-Charge				
OSI Software Subtotal:				**US$ 0.00**
Third Party Software				
Customer Furnished Third Party Software	1	0.00	LOT	US$ 0.00
All Third Party Software				
Third Party Software Subtotal:				**US$ 0.00**
Project Implementation				
GMS Upgrade Implementation	1	111,520.00	EA	US$ 111,520.00
At OSI: - Project Management and Coordination - Project Engineering and Design - Virtual Machine Upgraded System Setup - Software Installation and Configuration - Database and Display Conversion and Integration - Virtual Machine Upgraded System Q/A Testing - VM Export and Integration Assistance - Post-Cutover Problem Resolution and Assistance - System Documentation Updates At DME: - Software Integration and Verification - Site Testing - Cutover Preparation - Feature Differences Operator Training Session - Execute Cutover				
Project Implementation Subtotal:				**US$ 111,520.00**
			Total:	**US$ 111,520.00**

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QUOTATION

Quote Number: 27983

Reference: DME2021-Q05-Rev1

Description	Qty	Unit Cost	Unit	Extended Cost
Option #1: FAT				
Project Implementation				
Factory Acceptance Testing At OSI: - FAT Planning and Preparation - 3-Day Factory Acceptance Testing - FAT Cleanup	1	10,640.00	EA	US$ 10,640.00
Project Implementation Subtotal:				**US$ 10,640.00**
Option #1 Total:				**US$ 10,640.00**
Option #2: SAT				
Project Implementation				
Site Acceptance Testing At OSI: - SAT Preparation Activities - Post-SAT System Documentation Updates At DME: - 3-Days Formal Site Acceptance Testing - SAT Cleanup and Commissioning Preparation	1	14,880.00	EA	US$ 14,880.00
Project Implementation Subtotal:				**US$ 14,880.00**
Option #2 Total:				**US$ 14,880.00**
Option #3: CHRONUS Addition				
Third Party Hardware				
Customer Furnished Server Physical Host Server Hosting: - (1) CHRONUS VM @PCC on DMZ LAN	1	0.00	EA	US$ 0.00
Customer Furnished Server Physical Host Server Hosting: - (1) CHRONUS VM @BCC on DMZ LAN	1	0.00	EA	US$ 0.00
Customer Furnished Hardware All Other Hardware (i.e. Cables, Cabinets, Firewalls, Network Switches, KVM Tray, KVM Switch, GPS Clock, Etc.)	1	0.00	LOT	US$ 0.00
Third Party Hardware Subtotal:				**US$ 0.00**

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QUOTATION

Quote Number: 27983

Reference: DME2021-Q05-Rev1

Description	Qty	Unit Cost	Unit	Extended Cost
OSI Software				
CHRONUS Enterprise Licensing Up to 5,000 Points 2 Servers: - Non-Redundant Server on PCC SCADA LAN - Non-Redundant Server on BCC SCADA LAN Up to 10 Concurrent Users OpenView Interface Playback Capabilities OSI Excel Plug-In Interface ODBC Interface (Can be Used with Power BI)	1	45,000.00	EA	US$ 45,000.00
OSI Software Subtotal:				**US$ 45,000.00**
Third Party Software				
Customer Furnished Third Party Software All Third Party Software	1	0.00	LOT	US$ 0.00
Third Party Software Subtotal:				**US$ 0.00**
Project Implementation				
CHRONUS Implementation At OSI: - Project Management and Coordination - Project Engineering and Design - VM Configuration and OS Build - Software Installation and Configuration - Factory Q/A Testing - VM Export and Remote Integration Assistance - Post-Commissioning Problem Resolution and Assistance - System Documentation Updates AT DME: - Site Integration and Configuration - Site Testing - Operator Training	1	45,280.00	EA	US$ 45,280.00
Project Implementation Subtotal:				**US$ 45,280.00**
Training				
Training - Units Sufficient for One Attendee of the Following OSI-U Courses: - S120: CHRONUS Report Building - S236: CHRONUS Administration	2	545.00	UNITS	US$ 1,090.00
Training Subtotal:				**US$ 1,090.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	6,750.00	EA	US$ 6,750.00
monarch™ Support Adders Subtotal:				**US$ 6,750.00**
Option #3 Total:				**US$ 98,120.00**

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QUOTATION

Quote Number: 27983
Reference: DME2021-Q05-Rev1

Description	Qty	Unit Cost	Unit	Extended Cost
Option #4: Report Studio Addition				
OSI Software				
OSI Report Studio (Report Design, Scheduling and Viewing Tool) License 2 Servers (1 @PCC, 1 @BCC) 20 Concurrent Users (Up to 10 OpenView Users and 10 External Web Users)	1	25,000.00	EA	US$ 25,000.00
OSI Software Subtotal:				**US$ 25,000.00**
Project Implementation				
Report Studio Implementation At OSI: - Additional Project Management and Coordination - Additional Project Engineering and Design - Remote Implementation and Testing - Post Installation Support and Q/A	1	27,360.00	EA	US$ 27,360.00
Project Implementation Subtotal:				**US$ 27,360.00**
monarch™ Support Adders				
monarch™ Support Adder - Gold	1	3,750.00	EA	US$ 3,750.00
monarch™ Support Adders Subtotal:				**US$ 3,750.00**
Option #4 Total:				**US$ 56,110.00**

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email: info@osii.com https://www.osii.com

QUOTATION

Quote Number: 27983

Reference: DME2021-Q05-Rev1

Customer Address Info:

Bill To:

City of Denton, Texas
215 E McKinney St
Denton TX 76201-4299
USA

Ship To:

Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

Payment Terms:

Net 30 Days

Milestone Payment Details:

10% Upon Quote Acceptance
15% Upon Project Kickoff Meeting
25% Upon Completion of Virtual Machine Upgraded System Q/A Testing (or FAT, if Option 1 is Selected)
25% Upon Completion of Site Testing (or SAT, if Option 2 is Selected)
25% Upon Project Completion

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QUOTATION

Quote Number: 27983
Reference: DME2021-Q05-Rev1

Special Terms and Conditions:

1. Quoted disk sizing assumes CHRONUS archival of 1,000 points with a 50% change rate every 2 seconds with 2 years of historical data available online.
2. Any VM host hardware or standalone hardware supplied by DME is compliant with monarch™.NET minimum requirements as follows:

Minimum Host Server Specifications Per VM Instance
- CPU: 4 Physical Cores (8 Threads)
- RAM: 16GB
- DISK IOPS: 100
- OS: Windows Server 2016, Windows Server 2019, RedHat Enterprise Linux 7

Recommended Host Server Specifications Per VM Instance
- CPU: 8 Physical Cores (16 Threads)
- RAM: 32GB
- DISK IOPS: 200
- OS: Windows Server 2016, Windows Server 2019, RedHat Enterprise Linux 7, RedHat Enterprise Linux 8

Standalone Server Specifications:
- XEON CPU: Dual Eight-Core HT, 2.1GHz and Above
- RAM: 32+GB
- OS: Windows Server 2019, RedHat Enterprise Linux 7, RedHat Enterprise Linux 8

Standalone Workstation Specifications:
- CPU: Single Quad-Core HT ~3.6GHz and Above
- RAM: 32+GB
- OS: Windows 10 Pro 64-Bit
- Video Card: FirePro WX4100 4GB or Better

Server
- Xeon CPU: Dual Six-Core 2.3GHz and above
- RAM: 32+GB
- OS: Windows Server 2016, Windows Server 2019, RedHat Enterprise Linux 7

Workstation
- CPU: Single Quad-Core 2.8GHz and above
- RAM: 16+GB
- OS: Windows 10 64-bit
- Video Card: FirePro WX4100 4GB or better**

*Quantities are additive, per VM (e.g. a host with 5 VMs will require 5x quantities shown). This does not reflect how to configure the VMs within the hypervisor; it is only a guideline for how to size the host hardware.
**In addition to indicated per VM RAM quantities, another 16GB RAM is required for the Hypervisor component.

3. DME will provide all third party hardware, software (such as backup/archival software), licensing, and configuration not specifically mentioned in this quote.
4. If required, DME will handle any custom display and database work, and will test and verify all external links and interfaces.
5. DME will provide high-speed remote access to server and console hardware, if needed (VPN, Remote Desktop Connection, etc.). Dial-up modem connections are insufficient.
6. DME will be responsible for configuration of corporate or external facing firewalls, if applicable.
7. DME will provide sufficient cabinet space and cabling for new hardware. If DME is not able to provide this, additional cabinets and/or cables can be quoted separately.
8. A feature differences operator review session is included but limited to a brief hands-on, informal session. Additional training can be quoted separately as needed.
9. Option 4 for Report Studio is dependent upon the acceptance of Option 3 for CHRONUS.

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Phone: (763) 551-0559 Fax: (763) 404-4007
email: info@osii.com https://www.osii.com

QUOTATION

Quote Number: 27983
Reference: DME2021-Q05-Rev1

Standard Terms and Conditions

1. All quoted prices are in US Dollars ($), unless otherwise stated.
2. Travel and associated administrative costs are not included in this quote, and will be billed as incurred, unless otherwise stated.
3. Customer shall pay all applicable shipping and tariffs, unless otherwise stated.
4. Quoted price does not include applicable taxes, unless otherwise stated.
5. OSI will schedule all work upon receipt of the Customer's written acceptance, subject to OSI's resource availability.
6. Training, if applicable, will be provided at OSI's facility, unless otherwise stated.
7. Training Units may be used for up to 18 months from the date of purchase; any remaining unused Units will expire thereafter. One Training Unit is equivalent to one student attending one day of instruction for OSI University courses in Minneapolis (including Web-U courses).
8. Customer shall provide all relevant system information required for the work as needed (i.e. databases, displays, reports, IP addresses, networking information, RTU channel information, etc.) and shall be responsible for all delays caused by Customer's failure to do so in a timely manner.
9. Customer will have dedicated personnel available to assist OSI in the work, unless otherwise stated.
10. All third-party hardware purchased as part of this quote carries a standard OEM warranty, unless otherwise stated. All OSI hardware purchased as part of this quote carries a one-year warranty against defects from date of delivery, unless otherwise stated.
11. OSI does not guarantee that third-party goods will be available at time of quote acceptance. If third-party goods are not available, upon Customer's authorization, OSI will provide suitable replacements and bill any resulting cost differences to the Customer. Failure to timely authorize replacements may result in delays and/or need to re-quote.
12. When applicable, Customers subscribing to Gold or above Support Plans may be entitled to new software version updates without charge. With the exception of Diamond Plan subscribers, the Customer will be responsible to pay for any engineering services required to implement the software upgrades.
13. Unless otherwise agreed and quoted, Customer is responsible for all preparations for OSI's installation of software, hardware or services and any post-installation compatibility testing and compliance issues.
14. Customer will provide adequate environmental and power conditions onsite, unless otherwise stated.
15. Cutover is defined as the quoted functionality being operational with no outstanding critical incidents.
16. Any Quote(s) for system upgrade services require(s) that at the time of actual implementation Customer has a valid premium monarch™ Support plan which includes software upgrade privileges and that the system size or scope does not change dramatically between the issuance of the quote and implementation of the service.
17. Customer Furnished Hardware and Software: Customer shall provide all required third-party equipment and software ("CFE") for the Project except for the OSI-provided equipment identified in this quote. Customer shall be responsible to timely deliver all CFE to OSI in compliance with the mutually agreed upon Project Schedule for integration with the OSI software. Customer shall pay all shipping and insurance costs both to and from OSI and shall be responsible for all CFE warranties.
18. Export Controls:
18.1. Customer represents: It is not a citizen, national, or resident of, and is not under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, nor any country to which the United States has prohibited export and that it is not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor is it listed on the United States Department of Commerce Table of Denial Orders.
18.2. Customer agrees that it will not export or re-export the Product(s), directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries nor to any entity so listed on any of the above mentioned lists.
18.3. Customer agrees that it will not use the Product(s) for, and will not allow the Product(s) to be used for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.
18.4. The requirements of 18.2 and 18.3 above apply to all Product(s) purchased or licensed to Customer from OSI, whether included in this quote or purchased or licensed previously.

Notice: OSI's quote is based upon Customer's acceptance of all applicable Terms and Conditions. Requests for additions to, deletions of, or different Terms and Conditions, may require a revised quote and/or additional costs or schedule delays.

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email: info@osii.com https://www.osii.com

DocuSign Envelope ID: 4D9B0E47-CCDB-4DF0-A4B8-066765092E57

QUOTATION

Quote Number: 27804
Reference: DME2021-Q06

Quote To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

OSI Sales Contact:
Name: TJ Kellner
Phone: 763-404-4168
Email: TJ.Kellner@osii.com

Date:
4/1/2021
Valid Until:
5/31/2021

Attention:
Larry Collier
(940) 349-7000
Larry.Collier@cityofdenton.com

Quote Description:
McAfee ENS PMS Entitlement Addition

Description	Qty	Unit Cost	Unit	Extended Cost
Base Quote				
Patch Management				
Patch Management Entitlement Addition	1	3,000.00	EA	US$ 3,000.00
Annual Fee for McAfee ENS Entitlement Addition				
Patch Management Subtotal:				**US$ 3,000.00**
			Total:	**US$ 3,000.00**

Open Systems International Inc.
4101 Arrowhead Drive, Medina MN 55340-9649
Phone: (763) 551-0559 Fax: (763) 404-4007
email: info@osii.com https://www.osii.com

QUOTATION

Quote Number: 27804
Reference: DME2021-Q06

Customer Address Info:

Bill To:
City of Denton, Texas
215 E McKinney St
Denton TX 76201-4299
USA

Ship To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

Payment Terms:
Net 30 Days

Milestone Payment Details:
100% Upon Quote Acceptance

Open Systems International Inc.
4101 Arrowhead Drive, Medina MN 55340-9649
Phone: (763) 551-0559 Fax: (763) 404-4007
email: info@osii.com https://www.osii.com

QUOTATION

Quote Number: 27804
Reference: DME2021-Q06

Standard Terms and Conditions

1. All quoted prices are in US Dollars ($), unless otherwise stated.
2. Travel and associated administrative costs are not included in this quote, and will be billed as incurred, unless otherwise stated.
3. Customer shall pay all applicable shipping and tariffs, unless otherwise stated.
4. Quoted price does not include applicable taxes, unless otherwise stated.
5. OSI will schedule all work upon receipt of the Customer's written acceptance, subject to OSI's resource availability.
6. Training, if applicable, will be provided at OSI's facility, unless otherwise stated.
7. Training Units may be used for up to 18 months from the date of purchase; any remaining unused Units will expire thereafter. One Training Unit is equivalent to one student attending one day of instruction for OSI University courses in Minneapolis (including Web-U courses).
8. Customer shall provide all relevant system information required for the work as needed (i.e. databases, displays, reports, IP addresses, networking information, RTU channel information, etc.) and shall be responsible for all delays caused by Customer's failure to do so in a timely manner.
9. Customer will have dedicated personnel available to assist OSI in the work, unless otherwise stated.
10. All third-party hardware purchased as part of this quote carries a standard OEM warranty, unless otherwise stated. All OSI hardware purchased as part of this quote carries a one-year warranty against defects from date of delivery, unless otherwise stated.
11. OSI does not guarantee that third-party goods will be available at time of quote acceptance. If third-party goods are not available, upon Customer's authorization, OSI will provide suitable replacements and bill any resulting cost differences to the Customer. Failure to timely authorize replacements may result in delays and/or need to re-quote.
12. When applicable, Customers subscribing to Gold or above Support Plans may be entitled to new software version updates without charge. With the exception of Diamond Plan subscribers, the Customer will be responsible to pay for any engineering services required to implement the software upgrades.
13. Unless otherwise agreed and quoted, Customer is responsible for all preparations for OSI's installation of software, hardware or services and any post-installation compatibility testing and compliance issues.
14. Customer will provide adequate environmental and power conditions onsite, unless otherwise stated.
15. Cutover is defined as the quoted functionality being operational with no outstanding critical incidents.
16. Any Quote(s) for system upgrade services require(s) that at the time of actual implementation Customer has a valid premium monarch™ Support plan which includes software upgrade privileges and that the system size or scope does not change dramatically between the issuance of the quote and implementation of the service.
17. Customer Furnished Hardware and Software: Customer shall provide all required third-party equipment and software ("CFE") for the Project except for the OSI-provided equipment identified in this quote. Customer shall be responsible to timely deliver all CFE to OSI in compliance with the mutually agreed upon Project Schedule for integration with the OSI software. Customer shall pay all shipping and insurance costs both to and from OSI and shall be responsible for all CFE warranties.
18. Export Controls:
18.1. Customer represents: It is not a citizen, national, or resident of, and is not under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, nor any country to which the United States has prohibited export and that it is not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor is it listed on the United States Department of Commerce Table of Denial Orders.
18.2. Customer agrees that it will not export or re-export the Product(s), directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries nor to any entity so listed on any of the above mentioned lists.
18.3. Customer agrees that it will not use the Product(s) for, and will not allow the Product(s) to be used for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.
18.4. The requirements of 18.2 and 18.3 above apply to all Product(s) purchased or licensed to Customer from OSI, whether included in this quote or purchased or licensed previously.

Notice: OSI's quote is based upon Customer's acceptance of all applicable Terms and Conditions. Requests for additions to, deletions of, or different Terms and Conditions, may require a revised quote and/or additional costs or schedule delays.

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QUOTATION

Quote Number: 27829
Reference: DME2021-Q07-Budgetary

Quote To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

OSI Sales Contact:
Name: TJ Kellner
Phone: 763-404-4168
Email: TJ.Kellner@osii.com

Date:
4/5/2021
Valid Until:
6/4/2021

Attention:
Larry Collier
(940) 349-7000
Larry.Collier@cityofdenton.com

Quote Description:
Budgetary Multi-Year monarch™ Support and Patch Management Renewal

Description	Qty	Unit Cost	Unit	Extended Cost
Base Quote				
monarch™ Support				
GMS monarch™ Support - Gold Support Period: 29-Jun-22 to 28-Jun-27 - Year 1 (29-Jun-22 to 28-Jun-23): $41,643 - Year 2 (29-Jun-23 to 28-Jun-24): $42,268 - Year 3 (29-Jun-24 to 28-Jun-25): $42,902 - Year 4 (29-Jun-25 to 28-Jun-26): $43,546 - Year 5 (29-Jun-26 to 28-Jun-27): $44,199	1	214,558.00	EA	US$ 214,558.00
T&D SCADA monarch™ Support - Gold Support Period: 01-Nov-21 to 31-Oct-26 - Year 1 (01-Nov-21 to 31-Oct-22): $42,888 - Year 2 (01-Nov-22 to 31-Oct-23): $43,531 - Year 3 (01-Nov-23 to 31-Oct-24): $44,184 - Year 4 (01-Nov-24 to 31-Oct-25): $44,847 - Year 5 (01-Nov-25 to 31-Oct-26): $45,520	1	220,970.00	EA	US$ 220,970.00
monarch™ Support Subtotal:				**US$ 435,528.00**
Patch Management				
Patch Management Services - Gold Service Period: 15-Dec-21 to 14-Dec-26 - Year 1 (15-Dec-21 to 14-Dec-22): $29,877 - Year 2 (15-Dec-22 to 14-Dec-23): $29,877 - Year 3 (15-Dec-23 to 14-Dec-24): $30,325 - Year 4 (15-Dec-24 to 14-Dec-25): $30,325 - Year 5 (15-Dec-25 to 14-Dec-26): $30,780	1	151,184.00	EA	US$ 151,184.00
Patch Management Subtotal:				**US$ 151,184.00**
			Total:	**US$ 586,712.00**

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QUOTATION

Quote Number: 27829

Reference: DME2021-Q07-Budgetary

Customer Address Info:

Bill To:
City of Denton, Texas
215 E McKinney St
Denton TX 76201-4299
USA

Ship To:
Denton Municipal Electric
1659 Spencer Rd.
Denton TX 76205
USA

Payment Terms:
Net 30 Days

Milestone Payment Details:
To be Determined Upon Firm Quotation

Special Terms and Conditions:

1. This is a budgetary quote; a firm quote is required prior to acceptance.
2. This pricing assumes no new licensing is purchased or entitlements are added between now and the completion of the current service periods.
3. If new licensing is purchased a support adder will be incurred and added to the support pricing.
4. If new entitlements are added a patch management adder will be incurred and added to the patch management pricing.
5. Patch Management Services includes Discovery, Testing, and Analysis on the following software:
   - NTP
   - Microsoft Visual Studio C++ Express
   - MS SQL Server 2005 (Win 2k8 R2)
   - Windows 7 64-bit
   - McAfee
   - MS SQL Server 2008 (Windows 2008 R2)
   - JRE (Windows)
   - Mozilla Firefox
   - Microsoft Visual Studio 2010 Express
   - MS SQL 2012 (Win 2012)
   - Microsoft Office 2013 Pro
   - Windows Server 2012 R2
   - Cisco 3750x Switch
   - Notepad++
   - Putty
   - Google Chrome
   - Microsoft Office 2016
   - RHEL 7
   - Cisco 3650 Switch
   - AMD Graphics Card Drivers
   - NVIDIA Graphics Card Drivers
   - Cisco 3850 Switch
   - Visual Studio 2013
   - Windows 10 64-bit
   - Windows Server 2016
   - MS SQL 2016
   - Visual Studio 2015
   - Wireshark
   - VMware ESXi 6.0
   - VMware ESXi 6.5
   - Windows Server 2019
   - MS SQL 2019

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18. Export Controls:
18.1. Customer represents: It is not a citizen, national, or resident of, and is not under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, nor any country to which the United States has prohibited export and that it is not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor is it listed on the United States Department of Commerce Table of Denial Orders.
18.2. Customer agrees that it will not export or re-export the Product(s), directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries nor to any entity so listed on any of the above mentioned lists.
18.3. Customer agrees that it will not use the Product(s) for, and will not allow the Product(s) to be used for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.
18.4. The requirements of 18.2 and 18.3 above apply to all Product(s) purchased or licensed to Customer from OSI, whether included in this quote or purchased or licensed previously.

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Part B

OSI SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is made this day of , 20 ("Effective Date"), between Open Systems International, Inc., with offices at 4101 Arrowhead Drive, Medina, Minnesota, USA 55340-9457 (hereinafter "Licensor"), and City of Denton, Texas, a home rule municipal corporation, with offices at 215 E. McKinney Street, Denton, Texas 76201 (hereinafter "Licensee").

1. Definitions.

"Software" means (i) the machine-readable, object-code version of Licensor's confidential and proprietary software, including Server Software and Client Software, as set forth in the List of Deliverables or any subsequent orders thereafter; (ii) the Documentation; and (iii) any updates or revisions that Licensee may receive.

"List of Deliverables" means the list of products and software purchased or licensed by Licensee.

"Documentation" means the user guides and specifications for the Software that are made available by Licensor in electronic or tangible form.

"Server" means any physical server and/or any virtual server created by logically partitioning a physical server to create multiple virtual platforms or systems within a single physical server.

"Server Software" means that portion of the Software, which is installed on a Server or on a redundant pair of Servers (i.e., 2 computers), which serves a number of simultaneous users in a production environment. Some systems may also be licensed with additional Server licenses for development and test environments as well as disaster recovery and emergency backup purposes which, if any, are defined in the List of Deliverables.

"Client Software" means that portion of the Software, which is physically or virtually installed on a single user workstation or computer, which allows connection with the Server Software and use of the Software.

2. License Grant/Use of Software.

Grant of License. Licensor hereby grants to Licensee, pursuant to the following terms and conditions, a perpetual, non-exclusive, non-transferable, license to use the Software in support of its primary business mission and in operation of its own assets.

2.1 Permitted Uses. Licensee may:

(i) Transfer the Software to other equipment if the particular primary equipment is inoperative, provided that at any time the Server Software and/or Client Software are active in accordance with the number of licenses purchased.

(ii) Make static archival copies of the Software, provided that such copies shall include Licensor's copyright and other proprietary notices. All copies made by Licensee are the exclusive property of Licensor. At no times shall this copying create an unlicensed replication of the Software for use on unauthorized computers.

(iii) Make copies of the Documentation, provided that such copies shall be used only for Licensee's internal purposes and are not republished or distributed beyond Licensee's premise. Such copies shall include Licensor's copyright and other proprietary notices.

(iv) Develop applications in support of its business using the Licensor-provided Application Programming Interfaces (APIs) and tools delivered with the Software. Such Licensee-developed new applications are not considered part of Licensor's Software.

2.2 Uses Not Permitted. Licensee may not:

(i) Copy the Software, except as permitted above.

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(ii) Transfer, sublicense, distribute, pledge, lease, rent, share, sell, lend or otherwise transfer all or any portion of the Software.
(iii) Translate, modify, adapt, decompile, disassemble, or reverse engineer any Software, in whole or in part, or to bypass any licensing restrictions.
(iv) Modify or create unauthorized derivative works of the Software or Documentation.
(v) Use the Software to provide software services through remote hosting or otherwise, or to process the data of a third party or any other use of the Software for commercial gains.
(vi) Install the Software on computers not owned, leased or otherwise controlled by Licensee, unless the License expressly allows installation on commercial third party cloud infrastructure.
(vii) Create multiple-use operations or multiple hosting facilities above and beyond the number of environments expressly licensed by installing the Software in more than a single physical or virtual location to allow simultaneous and parallel use of the Software.
(viii) Create images of the Software on virtual servers to override or bypass the number of required licensed copies, or to create back up control centers or hot back up sites for disaster recovery by not licensing these Software extensions to the license from the Licensor.

2.3 Use on Designated Equipment. Licensee agrees to:
(i) Install the Software only on computers owned, leased, or otherwise controlled by Licensee, unless the license expressly allows installation on commercial third party cloud infrastructure instead of on premise computer infrastructure.
(ii) Limit the use of Server Software to physical or virtual sites consistent with the number of Server Software licenses purchased as listed in the List of Deliverables. Any installed instance of the Server Software on a physical or virtual server shall be counted as an instance and shall be consistent with the number of licensed copies.
(iii) Only install the Client Software on single workstations or single personal computers and in accordance with the number of Client Software licenses purchased as listed in the List of Deliverables.

3. License Fees/Audit.

3.1 In consideration for the foregoing license, Licensee shall pay Licensor in full for all applicable license fees as set forth in the associated order(s).

3.2 During the term of this Agreement, Licensor shall have the right, from time to time, upon thirty (30) days advance written notice and at its expense, to direct a recognized accounting firm to conduct, during normal business hours, an audit of (and to copy) the appropriate records of Licensee to verify the number of physical or virtual copies of the Software in use by Licensee, the computer systems on which such copies are installed and in the case of limited user licenses, the number of users using such copies, and the database sizing dictating the database size-dependent license fees. If an audit reveals that Licensee has underpaid fees to Licensor, Licensee shall be invoiced for such underpaid fees based on Licensor's readily ascertainable prices in effect at the time the audit was completed. Representatives of the accounting firm shall protect the confidentiality of the Licensee's Confidential Information and abide by the Licensee's reasonable security regulations and conduct themselves in such a manner as not to interfere unreasonably with Licensee's normal business operations while on Licensee's premises.

4. Warranty.

4.1 Scope of Warranty/Warranty of Title. Licensor hereby represents and warrants that: (i) Licensor has good and marketable title and the right to license the Software free and clear of all liens, security interests and encumbrances; and (ii) the Software does not infringe upon any U.S. patent, trademark, copyright, trade secret or other proprietary right of any third party. Any warranties against defects are set forth in the contract for services between the parties.

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4.2 EXCEPT AS SET FORTH IN THIS SECTION 4, LICENSOR MAKES AND LICENSEE RECEIVES NO EXPRESSED OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE, ITS CONDITION, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE BY LICENSEE. LICENSOR FURNISHES THE ABOVE WARRANTIES IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL SUCH EXPRESS OR IMPLIED WARRANTIES ARE HEREBY DISCLAIMED.

5. Limitation of Liability. Neither party shall be liable, whether in contract, warranty, tort (including negligence), strict liability, indemnity or any other legal theory, for indirect, special, incidental or consequential damages, however caused, including but not limited to, any such damages arising out of the use or operation of the Software, delays in delivery or repair, loss of use of the Software, or damage to any documents, data or other property of Licensee, loss of revenue or profit; for costs of capital or of substitute use or performance; or for any other loss or cost of a similar type; or for claims by either party for damages claimed by the other party's customers. Except in the case of gross negligence, reckless or willful misconduct, or a breach of Confidentiality (under Section 7) or a breach of Intellectual Property Indemnification (under Section 6.2), the maximum liability under this Agreement shall not exceed double the amount of the total license fees paid under this Agreement.

Both parties agree that the exclusions and limitations set forth in this Section 5 do not preclude either party from obtaining equitable or injunctive relief or pursuing others who may be responsible for some or all of any losses incurred.

Licensee acknowledges and agrees that Licensor has set its prices and entered into this Agreement in reliance upon the disclaimer of warranty and limitation of liability set forth herein, that same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties.

6. Intellectual Property Rights and Indemnification.

6.1 Proprietary Rights. All intellectual property rights including trademarks, service marks, patents, copyrights, trade secrets, and other proprietary rights in or related to the Software are and will remain the property of Licensor or its licensors, whether or not specifically recognized or protected under local law. Only Licensor shall have the right to modify, maintain, enhance, or otherwise alter the Software source code, unless specified otherwise.

6.2 Intellectual Property Indemnification. Licensor shall defend any claim, suit, or action filed against Licensee, its directors, officers, employees, agents, contractors, successors and assigns to the extent based on an allegation that the Software, as of its delivery date to Licensee, infringes any third party's valid U.S. patent or copyright. Licensor shall indemnify Licensee from any adverse final judgment (or settlement to which it consents) relating thereto.

Notwithstanding the foregoing, such indemnification obligations shall not apply: (a) unless Licensor is given prompt written notice of any claim or threat after Licensee learns of such claim or threat and such information and assistance as Licensor may request in order to prosecute its defense; and (b) unless Licensor is given the opportunity to control the defense of such action, provided however, that Licensee shall have the right to approve papers filed regarding dispositive motions and shall have the right to approve any settlement of any claims brought against it; (c) if the Software involved has been altered in any way by Licensee or other(s) and such infringement would not have been alleged but for the alteration; and (d) if Licensee continues to use the Software after Licensor notifies Licensee to discontinue such use due to a filed or impending claim, suit or action. Licensee shall protect Licensor to the same extent Licensor has agreed to protect Licensee herein if a claim or a suit is brought against Licensor based on such alteration by Licensee.

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In the event any such infringement, claim, action or allegation is brought or threatened against Licensee, Licensor may, at its sole option and expense: (i) procure for Licensee the right to continue using the Software, (ii) modify the Software so as to be non-infringing, (iii) procure a replacement product that has substantially the same functionality, or if none of the above options are reasonably available, or (iv) terminate this Agreement by notice to Licensee without further obligation or liability to Licensee relating to such infringement.

7. Confidentiality. Each party agrees that should a party (the "Disclosing Party") share information with the other party (the "Receiving Party") which is designated or marked as proprietary or confidential, or information which, under the circumstances surrounding disclosure ought to be treated as confidential by the Receiving Party (hereinafter "Confidential Information"), the Receiving Party shall not disclose this Confidential Information to anyone or use this Confidential Information for any purpose independent of the fulfillment of this Agreement . The Receiving Party shall not use any Confidential Information to the detriment of the Disclosing Party and shall use efforts to protect the confidentiality of any such Confidential Information commensurate with those which it employs to protect its own Confidential Information. The Receiving Party will ensure that it enters into agreements with employees, consultants, agents, shareholders and any other who have or may obtain access to the Confidential Information to maintain such Confidential Information in confidence. Confidential Information shall not include information which is: a) rightfully in the possession of or known to the Receiving Party prior to the disclosure without an obligation to maintain its confidentiality, b) publicly known or becomes publicly known through no unauthorized act of the Receiving Party, c) rightfully received by the Receiving Party from a third party without obligation of confidentiality, or d) independently developed by or for the Receiving Party.

In the event the Receiving Party receives a subpoena or other validly issued administrative or judicial process demanding the production of Confidential Information previously provided by the Disclosing Party, the Receiving Party shall promptly notify the Disclosing Party of this fact and tender the defense of or opposition to this subpoena or demand to the Disclosing Party. If the subpoena or demand is not timely limited, quashed or extended, the Receiving Party shall thereafter be entitled to comply with such subpoena or demand to the extent required by law. If requested by the Disclosing Party after the tender of defense or opposition is accepted, the Receiving Party shall cooperate in such defense or opposition at the expense of the Disclosing Party.

The Parties acknowledge that unauthorized disclosure of Confidential Information in violation of this Section may result in irreparable harm for which monetary damages or other remedy at law may be inadequate. Each party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper and necessary by a court of competent jurisdiction to prevent any irreparable harm which may be caused by a breach or threatened breach of this Agreement.

8. Termination.

8.1 Licensor shall have the right to immediately terminate this Agreement and the license granted herein:

(i) Upon written notice in the event that Licensee, its officers, agents, or employees materially breaches any provision of this Agreement. Such notice shall identify and describe the default upon which termination is based and the Licensee shall have thirty (30) days following receipt of the written notice to cure such default.

(ii) In the event Licensee: (i) becomes subject to any bankruptcy or insolvency proceeding under Federal or State statute(s) which filing is not withdrawn within sixty (60) days for the filing thereof; (ii) becomes insolvent or becomes subject to direct control by a trustee, receiver or similar authority; or (iii) has wound up or liquidated Licensee's business, voluntarily or otherwise.

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24. Upon termination, Licensee shall cease the use of the Software and either return or, upon request by Licensor, destroy the Software and provide a written affidavit to Licensor of the destruction of the Software. Termination under this paragraph shall not relieve Licensee of its obligations regarding confidentiality of the Software, nor relieve the Licensee of further claims made by the Licensor under the law for damages as a result of the violation of the terms of the Agreement. The provisions of Sections 5, 6, 7, 9, and 10, and any other sections that, by their terms, extend beyond the term of this Agreement survive termination of this Agreement for any reason, provided that such provisions terminate within the time frame specified by any such provision.
8.2 .

9. Export Controls Compliance. Licensee agrees to comply with all applicable United States export control laws and regulations, as amended from time to time, including without limitation the laws and regulations administered by the United States Department of Commerce and the United States Department of State. Licensee agrees that neither the Software nor any data, information, program and/or materials resulting from Licensor's services (or any direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology. To the extent allowed by the laws of the state of Texas and without waiving any applicable immunity, Licensee will indemnify and hold Licensor harmless from any and all liability arising out of Licensee's use of the Software in violation of these laws, rules or regulations.

10. General Provisions.

10.1 Complete Agreement. Each party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms. The parties further agree that this Agreement is the complete and exclusive statement of this Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties governing operation and use of the Software. This Agreement may not be modified or altered except by written instrument duly executed by both parties.

10.2 Waiver. The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any other right hereunder.

10.3 Severability. If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, only that provision is to be deemed omitted and the remaining provisions shall not be affected in any way.

10.4 Assignment. Licensee may not assign the Software or this Agreement to anyone, including any parent, subsidiary or affiliate or as part of the sale of any portion of its business or pursuant to any merger, consolidation or reorganization without Licensor's prior written consent, except to a successor of all of Licensee's assets and business, provided the successor agrees to be bound by this Agreement and the successor is not a direct competitor of the Licensor. Licensee acknowledges that as a condition to such consent, Licensor may require the assignee to update all Software to the then-current version and purchase one year of Software support.

10.5 U.S. Government Contracts. Any Software or Documentation acquired by or on behalf of a unit or agency of the United States Government is "commercial computer software" or "commercial computer software documentation" and, absent a written agreement to the contrary, the Government's rights with respect to such Software or Documentation are limited by the terms of this Agreement, pursuant to FAR § 12.212(a) and its successor regulations and/or DFARS § 227.7202-1(a) and its successor regulations, as applicable. The manufacturer is Open Systems International, Inc., 4101 Arrowhead Drive, Medina, Minnesota USA 55340-9457.

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10.6 Governing Law. The validity, interpretation, and enforcement of this Agreement shall be governed by the laws of, and the parties agree and consent to the jurisdiction of, the State and Federal courts in: (1) Minnesota, USA, for any claim brought against Licensor by Licensee; or (2) Licensee's local legal jurisdiction (e.g., home state, province, country, etc.) for any claim brought against Licensee by Licensor. In the event of multiple claims, the first to file shall control governing law and jurisdiction as provided above.

10.7 Dispute Resolution. Any dispute for claims which will not result in irreparable harm if not immediately addressed may be brought for decision in the applicable court of competent jurisdiction only after the parties have met and attempted to amicably resolve the dispute.

10.8 Limitation of Actions Period. No action, regardless of form, arising out of this Agreement may be brought by either party outside of an applicable statute of limitations

10.9 Counterparts. This Agreement may be executed in counterparts, all of which when executed and delivered shall constitute one single agreement between the parties.

SIGNATURES ON FOLLOWING PAGE

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The parties are signing this Agreement as of the Effective Date.

Licensor:
Open Systems International, Inc.
4101 Arrowhead Drive
Medina, Minnesota USA 55340-9457

By: _____
(Signature)

Name: _____

Title: _____

Date: _____

Licensee:

By: _____
(Signature)

Name: _____

Title: _____

Date: _____

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Exhibit C
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 insurance coverage as indicated hereinafter. Contractor shall provide the following types and amounts of insurance by any combination of primary, excess, or self-insurance.

Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable additional insured 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 coverage 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.
- Liability policies shall provide the following:

    - Include as Additional Insured the City of Denton, its Officials, Employees, and volunteers to the extent of the liabilities assumed by Contractor under this agreement.

    - That such insurance, to the extent of the liabilities assumed by Contractor under this agreement, is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

    - Provide a Waiver of Subrogation, to the extent of the liabilities assumed by Contractor under this agreement, in favor of the City of Denton, its officials, employees, and volunteers.

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- ***Cancellation: City requires 30 days' 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 combined single limits of **$2,000,000.00** 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.

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[X] **Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of **$1,000,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned hired and non-owned autos.

[X] **Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of $100,000 for each accident, $100,000 per each employee, and a $500,000 policy limit for occupational disease. The City need not be included 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 to the extent of Contractor's obligations under this Contract.

[ ] **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**

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Builders' Risk Insurance, on an All-Risk form for 100% of the completed value shall be provided. Such policy shall include as "Named Insured" the City of Denton and all subcontractors as their interests may appear.

[ ] **Environmental Liability Insurance**

Environmental liability insurance for $1,000,000 to cover all hazards contemplated by this contract.

[ ] **Riggers Insurance**

The Contractor shall provide coverage for Rigger's Liability. Said coverage may be provided by a Rigger's Liability endorsement on the existing CGL coverage; through and Installation Floater covering rigging contractors; or through ISO form IH 00 91 12 11, Rigger's Liability Coverage form. Said coverage shall mirror the limits provided by the CGL coverage

[ ] **Commercial Crime**

Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a "blanket" basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than $_____ each occurrence are required.

[ ] **Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

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ATTACHMENT 1

[ ] **Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities**

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any overage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1. a certificate of coverage, prior to that person beginning work on the

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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

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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.

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Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

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Exhibit E

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.** Open Systems International, Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

none

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 ☐ **I have no Conflict of Interest to disclose.**

5 DocuSigned by:

Al Eliasen

BC6767A01B0041B...

Signature of vendor doing business with the governmental entity

8/27/2021

Date

DocuSign

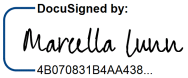
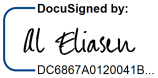
Certificate Of Completion

Envelope Id: 4D9B0E47CCDB4DF0A4B8066765092E57
Status: Completed
Subject: Please DocuSign: City Council Contract 7718 - OSI Renewal and Upgrade
Source Envelope:
Document Pages: 48
Signatures: 8
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Cori Power
901B Texas Street
Denton, TX 76209
cori.power@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
8/27/2021 12:52:27 PM
Holder: Cori Power
cori.power@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Cori Power cori.power@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 8/27/2021 2:30:33 PM Viewed: 8/27/2021 2:30:42 PM Signed: 8/27/2021 2:32:39 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DS Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 8/27/2021 2:32:41 PM Viewed: 8/27/2021 3:08:27 PM Signed: 8/27/2021 3:09:35 PM
Marcella Lunn marcella.lunn@cityofdenton.com Catherine Clifton, Interim City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by:  4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 8/27/2021 3:09:37 PM Viewed: 8/27/2021 4:29:11 PM Signed: 8/27/2021 4:32:42 PM
Al Eliasen Al.Eliasen@osii.com President Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 8/27/2021 4:52:31 PM ID: 182f6864-1202-45d1-937a-0988cb435e98	DocuSigned by:  DC6867A0120041B... Signature Adoption: Pre-selected Style Using IP Address: 204.147.90.2	Sent: 8/27/2021 4:32:46 PM Viewed: 8/27/2021 4:52:31 PM Signed: 8/27/2021 4:55:57 PM

Signer Events	Signature	Timestamp
Leisha Meine Leisha.Meine@cityofdenton.com Chief Technology Officer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: D60D157ADABC4D5... Signature Adoption: Pre-selected Style Using IP Address: 47.188.229.226 Signed using mobile	Sent: 8/27/2021 4:55:59 PM Viewed: 8/27/2021 8:50:08 PM Signed: 8/27/2021 8:50:54 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 8/27/2021 8:50:58 PM Viewed: 9/22/2021 7:52:12 AM Signed: 9/22/2021 7:53:09 AM
Sara Hensley sara.hensley@cityofdenton.com Interim City Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 47.184.119.76	Sent: 9/22/2021 7:53:12 AM Viewed: 9/22/2021 8:19:27 AM Signed: 9/22/2021 8:19:35 AM
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/22/2021 11:39:13 AM ID: ccee41a9-9e10-40a1-a8c8-bab6574b54c8	DocuSigned by: 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/22/2021 8:19:38 AM Viewed: 9/22/2021 11:39:13 AM Signed: 9/22/2021 11:39:34 AM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/27/2021 2:32:42 PM

Carbon Copy Events	Status	Timestamp
TJ Kellner TJ.Kellner@osii.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/27/2021 4:32:45 PM Viewed: 8/27/2021 4:39:02 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/27/2021 8:50:57 PM Viewed: 8/30/2021 10:46:31 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/22/2021 11:39:38 AM
Larry Collier Larry.Collier@cityofdenton.com Cybersecurity Supervisor Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 5/5/2021 9:11:55 AM ID: 6e384cb1-b025-488d-b151-218d8c5cec70	COPIED	Sent: 9/22/2021 11:39:40 AM
Lisa Collaud Lisa.Collaud@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/22/2021 11:39:42 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/27/2021 2:30:33 PM
Certified Delivered	Security Checked	9/22/2021 11:39:13 AM
Signing Complete	Security Checked	9/22/2021 11:39:34 AM
Completed	Security Checked	9/22/2021 11:39:42 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND OPEN SYSTEMS INTERNATIONAL, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON SEPTEMBER 21, 2021, IN THE NOT TO EXCEED AMOUNT OF $1,500,000.00, SAID AMENDMENT TO PROVIDE THE RENEWAL OF MAINTENANCE, SUPPORT, AND UPGRADE SERVICES OF OSI MONARCH FOR DENTON MUNICIPAL ELECTRIC; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 7718 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $193,973.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $1,693,973.00).

WHEREAS, on September 21, 2021, City Council awarded a contract to Open Systems International, Inc. in the amount of $1,500,000.00, for the renewal of maintenance, support, and upgrade services of OSI Monarch for Denton Municipal Electric; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Open Systems International, Inc., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Ninety-Three Thousand Nine Hundred Seventy-Three and 0/100 ($193,973.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to $1,693,973.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

Docusign City Council Transmittal Coversheet

FILE	7718
File Name	OSI Renewal and Upgrade.
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

THE STATE OF TEXAS §
§
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND OPEN SYSTEMS INTERNATIONAL, INC.
(Contract 7718)

THIS FIRST AMENDMENT TO CONTRACT 7718 (this "Amendment") by and between the City of Denton, Texas ("City") and OPEN SYSTEMS INTERNATIONAL, INC. ("Contractor") to that certain contract executed on September 21, 2021, in the original not-to-exceed amount of $1,500,000 (the "Agreement"); for services related to the **OSI Renewal and Upgrade.**

WHEREAS, the City deems it necessary to further expand the services provided by Contractor to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount $**193,973** with this First Amendment for an aggregate not-to-exceed amount of $**1,693,973**; and

WHEREAS, this amendment incorporates any previously executed documents between the parties including but not limited to pricing adjustments.

WHEREAS, the City deems it necessary to further expand the goods/services provided by Contractor to the City; and

WHEREAS, the original not-to-exceed amount may not be increased by more than 25.0% as provided in Texas Local Government Code Sec. 252.048; and

NOW THEREFORE, the City and Contractor (hereafter collectively referred to as the "Parties"), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following First Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. This Amendment modifies the Agreement amount to provide an additional $193,973 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of $**1,693,973.**
2. The additional goods/services described in Exhibit "A" of this Amendment, attached hereto and incorporated herein for all purposes, for goods/services related to **maintenance and support of the SCADA system** are hereby authorized to be performed by Contractor. For and in consideration of the additional goods/services to be performed by Contractor, the City agrees to pay, based on the cost estimate detail attached as Exhibit "A".

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The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this date_____.

"CONTRACTOR"
OPEN SYSTEMS INTERNATIONAL, INC.

Signed by:
By: Sean Egan
2B6BD14D5E864A1...
AUTHORIZED SIGNATURE, TITLE

"CITY"
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
By: Marcella Lunn
4B070831B4AA438...

ATTEST:
_____, CITY SECRETARY

By: _____

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational
obligations and business terms.

Signed by:
Antonio Puente, Jr.
F3760944C2B54B5...
SIGNATURE

Antonio Puente, Jr.
PRINTED NAME

DME General Manager
TITLE

Electric
DEPARTMENT

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

EXHIBIT A

Software Maintenance and Support (SMS) Renewal Quote

Open Systems International, Inc.
4101 Arrowhead Dr
Medina, MN 55340

Reference Number: 0000Jp7NtlAJ
Quote Number: 00102389
Quote Date: 6 October 2025
Offer Expires: 31 October 2025

Customer: Denton Municipal Electric

Upon payment in full of the specified Total Quote Fees, Open Systems International, Inc. (Licensor) will provide the Product(s) during the Quote Term for the software licensed by Licensor to Customer pursuant to Part B (OSI Software License Agreement) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718 by and between Licensor and Customer dated 9/21/2021. The Product(s) will be provided in accordance with OSI's support program as referenced in Section 6 (Warranties) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718. OSI's support program is detailed in the Software Support Plan Overview, which is incorporated herein by this reference and available upon request.

Year 1: 11/1/2025-9/20/2026				
SMS Products		**Fee**	**Site(s)**	**SMS Support Level**
monarch Support *USD 80,861.00 (T&D)* *(11/1/2025-9/20/2026)*		USD 80,861.00	Denton TX	Gold
Sub-Total Fees:		**USD 80,861.00**		
Total Quote Fees:		**USD 80,861.00**		
Quote Term:	**Start Date:**	**1 November 2025**		
	End Date:	**20 September 2026**		

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

All amounts to be invoiced hereunder will be exclusive of taxes or duties, and Customer is responsible for any such taxes or duties that may apply, including, but not limited to, sales and use taxes; excise taxes; value added taxes; consumption taxes; or goods and services taxes. If Licensor is required to collect any taxes from Customer, Customer shall pay such invoiced taxes, and Licensor will remit amounts collected to the appropriate taxing jurisdiction. If Customer is tax exempt, Customer must provide Licensor with a valid exemption certificate as evidence of exemption for any taxes that Licensor is required by law to collect and remit to the appropriate taxing jurisdiction. All Quote Fee(s) hereunder shall be paid in U.S. Dollars within 30 days of the invoice date. SMS for the Products must be renewed in the same calendar quarter as the End Date. If SMS for the Products is not renewed in the same calendar quarter as the End Date, Customer will no longer be entitled to SMS for the Products unless and until the perpetual license(s) for the Products are superseded with new term license(s) for the Products, which will be subject to a Software License Agreement by and between Licensor and Customer. An authorized representative of Customer may accept this Quote before it expires by signing below and returning the signed Quote to Licensor. The terms and conditions contained herein, including all forms incorporated herein by reference, shall constitute the entire agreement between Customer and the Licensor regarding SMS and shall supersede all prior agreements regarding SMS. Any purchase order Customer may issue for billing purposes must specifically reference the Quote Number. Purchase order provisions that are different from, or additional to, the provisions of this Quote will not apply.

Customer Signature:		
	Signature	**Printed Name and Title**

TO BE COMPLETED BY CUSTOMER

[ ] Check this box if a purchase order or payment reference number is required by Customer for billing purposes. Customer's failure to check the box confirms that no purchase order is required for Customer's internal payment process. If the box is checked, please insert the purchase order or payment reference number in the space provided:

PO or Reference Number: _____

Licensor does not require a purchase order; however, any purchase order Customer may issue for billing purposes must specifically reference the Quote Number.

Is the billing address below correct? ( ) YES ( ) NO

Denton Municipal Electric
City of Denton Purchasing Department 901-13 Texas St
Denton, TX 76209
tony.jones@cityofdenton.com

Is the shipping address below correct? ( ) YES ( ) NO

Denton Municipal Electric
1659 Spencer Rd
Denton, TX 76209
tony.jones@cityofdenton.com

In case of changes, enter the correct address(es) below:

_____
_____
_____
_____

Please contact the Sales Account Manager (SAM) for questions regarding this quote:

SAM: Chris Olson; Email: Chris.Olson@aspentech.com

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

Software Maintenance and Support (SMS) Renewal Quote

Open Systems International, Inc.
4101 Arrowhead Dr
Medina, MN 55340

Reference Number: 0000Jp7NtlAJ
Quote Number: 00102386
Quote Date: 6 October 2025
Offer Expires: 31 October 2025

Customer: Denton Municipal Electric

Upon payment in full of the specified Total Quote Fees, Open Systems International, Inc. (Licensor) will provide the Product(s) during the Quote Term for the software licensed by Licensor to Customer pursuant to Part B (OSI Software License Agreement) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718 by and between Licensor and Customer dated 9/21/2021. The Product(s) will be provided in accordance with OSI's support program as referenced in Section 6 (Warranties) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718. OSI's support program is detailed in the Software Support Plan Overview, which is incorporated herein by this reference and available upon request.

Year 1: 11/1/2025-9/20/2026				
SMS Products		**Fee**	**Site(s)**	**SMS Support Level**
Patch Management Services *USD 42,259.00 (11/1/2025-9/20/2026)*		USD 42,259.00	Denton TX	Gold
Sub-Total Fees:		**USD 42,259.00**		
Total Quote Fees:		**USD 42,259.00**		
Quote Term:	**Start Date:**	**1 November 2025**		
	End Date:	**20 September 2026**		

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

All amounts to be invoiced hereunder will be exclusive of taxes or duties, and Customer is responsible for any such taxes or duties that may apply, including, but not limited to, sales and use taxes; excise taxes; value added taxes; consumption taxes; or goods and services taxes. If Licensor is required to collect any taxes from Customer, Customer shall pay such invoiced taxes, and Licensor will remit amounts collected to the appropriate taxing jurisdiction. If Customer is tax exempt, Customer must provide Licensor with a valid exemption certificate as evidence of exemption for any taxes that Licensor is required by law to collect and remit to the appropriate taxing jurisdiction. All Quote Fee(s) hereunder shall be paid in U.S. Dollars within 30 days of the invoice date. SMS for the Products must be renewed in the same calendar quarter as the End Date. If SMS for the Products is not renewed in the same calendar quarter as the End Date, Customer will no longer be entitled to SMS for the Products unless and until the perpetual license(s) for the Products are superseded with new term license(s) for the Products, which will be subject to a Software License Agreement by and between Licensor and Customer. An authorized representative of Customer may accept this Quote before it expires by signing below and returning the signed Quote to Licensor. The terms and conditions contained herein, including all forms incorporated herein by reference, shall constitute the entire agreement between Customer and the Licensor regarding SMS and shall supersede all prior agreements regarding SMS. Any purchase order Customer may issue for billing purposes must specifically reference the Quote Number. Purchase order provisions that are different from, or additional to, the provisions of this Quote will not apply.

Customer Signature:		
	Signature	**Printed Name and Title**

TO BE COMPLETED BY CUSTOMER

[ ] Check this box if a purchase order or payment reference number is required by Customer for billing purposes. Customer's failure to check the box confirms that no purchase order is required for Customer's internal payment process. If the box is checked, please insert the purchase order or payment reference number in the space provided:

PO or Reference Number: _____

Licensor does not require a purchase order; however, any purchase order Customer may issue for billing purposes must specifically reference the Quote Number.

Is the billing address below correct? ( ) YES ( ) NO

Denton Municipal Electric
City of Denton Purchasing Department 901-13 Texas St
Denton, TX 76209
tony.jones@cityofdenton.com

Is the shipping address below correct? ( ) YES ( ) NO

Denton Municipal Electric
1659 Spencer Rd
Denton, TX 76209
tony.jones@cityofdenton.com

In case of changes, enter the correct address(es) below:

_____
_____
_____
_____

Please contact the Sales Account Manager (SAM) for questions regarding this quote:

SAM: Chris Olson; Email: Chris.Olson@aspentech.com

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

Software Maintenance and Support (SMS) Renewal Quote

Open Systems International, Inc.
4101 Arrowhead Dr
Medina, MN 55340

Reference Number: 0000Jp7NtlAJ
Quote Number: 00102399
Quote Date: 6 October 2025
Offer Expires: 31 October 2025

Customer: Denton Municipal Electric

Upon payment in full of the specified Total Quote Fees, Open Systems International, Inc. (Licensor) will provide the Product(s) during the Quote Term for the software licensed by Licensor to Customer pursuant to Part B (OSI Software License Agreement) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718 by and between Licensor and Customer dated 9/21/2021. The Product(s) will be provided in accordance with OSI's support program as referenced in Section 6 (Warranties) of Exhibit B (OSI Standard Terms and Conditions) to Contract 7718. OSI's support program is detailed in the Software Support Plan Overview, which is incorporated herein by this reference and available upon request.

Year 1: 11/1/2025-9/20/2026				
SMS Products		**Fee**	**Site(s)**	**SMS Support Level**
monarch Support *USD 70,853.00 (GMS)* *(11/1/2025-9/20/2026)*		USD 70,853.00	Denton TX	Gold
Sub-Total Fees:		**USD 70,853.00**		
Total Quote Fees:		**USD 70,853.00**		
Quote Term:	**Start Date:**	**1 November 2025**		
	End Date:	**20 September 2026**		

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

All amounts to be invoiced hereunder will be exclusive of taxes or duties, and Customer is responsible for any such taxes or duties that may apply, including, but not limited to, sales and use taxes; excise taxes; value added taxes; consumption taxes; or goods and services taxes. If Licensor is required to collect any taxes from Customer, Customer shall pay such invoiced taxes, and Licensor will remit amounts collected to the appropriate taxing jurisdiction. If Customer is tax exempt, Customer must provide Licensor with a valid exemption certificate as evidence of exemption for any taxes that Licensor is required by law to collect and remit to the appropriate taxing jurisdiction. All Quote Fee(s) hereunder shall be paid in U.S. Dollars within 30 days of the invoice date. SMS for the Products must be renewed in the same calendar quarter as the End Date. If SMS for the Products is not renewed in the same calendar quarter as the End Date, Customer will no longer be entitled to SMS for the Products unless and until the perpetual license(s) for the Products are superseded with new term license(s) for the Products, which will be subject to a Software License Agreement by and between Licensor and Customer. An authorized representative of Customer may accept this Quote before it expires by signing below and returning the signed Quote to Licensor. The terms and conditions contained herein, including all forms incorporated herein by reference, shall constitute the entire agreement between Customer and the Licensor regarding SMS and shall supersede all prior agreements regarding SMS. Any purchase order Customer may issue for billing purposes must specifically reference the Quote Number. Purchase order provisions that are different from, or additional to, the provisions of this Quote will not apply.

Customer Signature:		
	Signature	**Printed Name and Title**

TO BE COMPLETED BY CUSTOMER

[ ] Check this box if a purchase order or payment reference number is required by Customer for billing purposes. Customer's failure to check the box confirms that no purchase order is required for Customer's internal payment process. If the box is checked, please insert the purchase order or payment reference number in the space provided:

PO or Reference Number: _____

Licensor does not require a purchase order; however, any purchase order Customer may issue for billing purposes must specifically reference the Quote Number.

Is the billing address below correct? ( ) YES ( ) NO

Denton Municipal Electric
City of Denton Purchasing Department 901-13 Texas St
Denton, TX 76209
tony.jones@cityofdenton.com

Is the shipping address below correct? ( ) YES ( ) NO

Denton Municipal Electric
1659 Spencer Rd
Denton, TX 76209
tony.jones@cityofdenton.com

In case of changes, enter the correct address(es) below:

_____
_____
_____
_____

Please contact the Sales Account Manager (SAM) for questions regarding this quote:

SAM: Chris Olson; Email: Chris.Olson@aspentech.com

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

OPEN SYSTEMS INTERNATIONAL, INC.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 Signed by: Sean Egan 2B6BD14D5E864A1...

Signature of vendor doing business with the governmental entity

10/23/2025
Date

Docusign Envelope ID: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

(3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars ($50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars ($200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

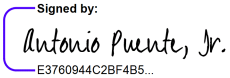
Envelope Id: 43339473-D3D7-4AFE-BFB5-5FF4E3ED9FE7
Status: Sent
Subject: Please DocuSign: City Council Contract 7718 OSI - NTE Amendment
Source Envelope:
Document Pages: 11
Signatures: 4
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christa Christian
901B Texas Street
Denton, TX 76209
Christa.Christian@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
10/16/2025 12:36:34 PM
Holder: Christa Christian
Christa.Christian@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christa Christian Christa.Christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 10/16/2025 12:48:55 PM Viewed: 10/16/2025 12:49:05 PM Signed: 10/16/2025 12:49:10 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/16/2025 12:49:13 PM Viewed: 10/16/2025 1:23:53 PM Signed: 10/16/2025 1:24:28 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/16/2025 1:24:31 PM Viewed: 10/17/2025 2:11:30 PM Signed: 10/17/2025 2:14:59 PM
Sean Egan chris.olson@aspentech.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/21/2025 7:49:14 AM ID: 29f0b750-397c-42fd-a7ba-dee6500da70c	Signed by: Sean Egan 2B6BD14D5E864A1... Signature Adoption: Pre-selected Style Using IP Address: 206.188.247.134	Sent: 10/17/2025 2:15:02 PM Resent: 10/23/2025 8:12:06 AM Viewed: 10/23/2025 11:35:48 AM Signed: 10/23/2025 11:36:54 AM

Signer Events	Signature	Timestamp
Antonio Puente, Jr. Antonio.Puente@cityofdenton.com DME General Manager Denton Municipal Electric Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/23/2025 12:06:51 PM ID: 5f51340b-1c88-41c5-b174-a447ff6ed5a1	Signed by:  E3760944C2BF4B5... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/23/2025 11:36:57 AM Viewed: 10/23/2025 12:06:51 PM Signed: 10/23/2025 12:07:20 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/23/2025 12:07:24 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex Ingrid.Rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/16/2025 12:49:13 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/23/2025 12:07:24 PM Viewed: 10/28/2025 2:46:34 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Jerry Looper jerry.looper@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/28/2025 1:36:51 PM ID: c1c5ec84-7379-4983-978a-a3db516dcc8f		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/16/2025 12:48:55 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Cintas Corporation No. 2, amending the contract approved by City Council on September 14, 2021, in the not-to-exceed amount of $2,153,000.00; said first amendment to continue to provide uniforms and accessories rentals for all City of Denton Departments; providing for the expenditure of funds therefor; and providing an effective date (File 7738 – providing for an additional first amendment expenditure amount not-to-exceed $538,250.00, with the total contract amount not-to-exceed $2,691,250.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Foster Economic Opportunity and Affordability.

INFORMATION/BACKGROUND

This amendment requests an increase to the not-to-exceed amount for the contract providing rental and laundering services for uniforms worn by City of Denton employees who are required to wear uniforms as part of their job duties. Per the City's uniform policy, departments must obtain uniforms through a vendor approved by the Procurement Department, either by purchase or rental. In addition to uniforms, the contract includes the rental and laundering of related items such as doormats and shop towels for various City facilities.

This amendment ensures the continued provision of essential uniform and facility services for City operations.

Pricing obtained through the Omnia Partners Cooperative Purchasing Network has been competitively bid and meets the statutory requirements of Texas Local Government Code 271.102.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 14, 2021, City Council approved the interlocal agreement with Omnia Partners (Ordinance 21-1842).

On September 14, 2021, City Council approved a contract with Cintas Corporation No. 2, in the not-to-exceed amount of $2,153,000 (Ordinance 21-1860).

RECOMMENDATION

Award Amendment No. 1 with Cintas Corporation No. 2, to continue to provide uniforms and accessories rentals for all City of Denton Departments, in a not-to-exceed amount of $538,250, for a total amended contract amount of $2,691,250.

PRINCIPAL PLACE OF BUSINESS

Cintas Corporation No. 2
Cincinnati, OH

ESTIMATED SCHEDULE OF PROJECT

This contract will expire on September 14, 2027.

FISCAL INFORMATION

These products and services will be funded through the using department's budget on an as-needed basis. The budgeted amount for this item is $2,691,250. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment 1

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information regarding this acquisition, please contact: Casey Bowles, 940-349-8489.

Legal point of contact: Marcella Lunn at 940-349-8333.

ORDINANCE NO. 21-1860

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH CINTAS CORPORATION NO. 2, THROUGH THE OMNIA PARTNERS COOPERATIVE PURCHASING NETWORK CONTRACT # R-BB-19002, FOR UNIFORM AND ACCESSORIES RENTAL FOR ALL CITY OF DENTON DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 7738 – AWARDED TO CINTAS CORPORATION NO. 2, IN THE THREE (3) YEAR, WITH THE OPTION FOR THREE (3) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL SIX (6) YEAR NOT-TO-EXCEED AMOUNT OF $2,153,000.00).

WHEREAS, pursuant to Ordinance 21-1842, Omnia Partners 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 Omnia Partners programs 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:

FILE NUMBER	VENDOR	AMOUNT
7738	Cintas Corporation No. 2	$2,153,000.00

SECTION 2. By the acceptance and approval of the items set forth in the referenced file number, the City accepts the offer of the persons submitting the bids to Omnia Partners 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 Omnia Partners 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 Omnia Partners, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attatched hereto; provided that the written contract is in accordance with the terms, conditions, specifications, and standards contained in the Proposal submitted to Omnia Partners, and related documents herein approved and accepted.

SECTION 4. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the items set forth in the referenced file number, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approval 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 Jesse Davis and seconded by Brian Beck. This ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	✓			
Vicki Byrd, District 1:	✓			
Brian Beck, District 2:	✓			
Jesse Davis, District 3:	✓			
Alison Maguire, District 4:	✓			
Deb Armintor, At Large Place 5:	✓			
Paul Meltzer, At Large Place 6:	✓			

PASSED AND APPROVED this the 14th day of September, 2021.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
CATHERINE CLIFTON, INTERIM CITY ATTORNEY

BY: _____

Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2021.08.26 10:55:05 -05'00'

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Docusign City Council Transmittal Coversheet

COOP	7738
File Name	Uniform and Accessories Rental
Purchasing Contact	Crystal Westbrook
City Council Target Date	SEPTEMBER 14, 2021
Piggy Back Option	Yes
Contract Expiration	SEPTEMBER 14, 2027
Ordinance	21-1860

DS
LH

DocuSign Envelope ID: D10AF2C2-9E3D-44C3-AC95-68507C07B6E1

CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND CINTAS CORPORATION NO. 2
(File # 7738)

THIS CONTRACT is made and entered into this date 09/14/2021, by and between CINTAS CORPORATION NO. 2 a NEVADA Corporation, whose address is 6800 Cintas BLVD., Cincinnati, OH 45265, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Supplier shall provide products in accordance with the Supplier's quote, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit "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) OMNIA Partners Cooperative Purchasing Contract #R-BB-19002 with Cintas Corporation NO. 2, **(Exhibit "B" on file at the office of the Purchasing Agent**) (the "Omnia Agreement");
(c) Cintas Corporation NO. 2, agreement **(Exhibit "C");**
(d) City of Denton Standard Terms and Conditions **(Exhibit "D");**
(e) Certificate of Interested Parties Electronic Filing **(Exhibit "E");**
(f) Insurance Requirements **(Exhibit "F");**
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel
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***

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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.

SUPPLIER

DocuSigned by:
BY: Jeremy Dressler
8108266A7799430...

AUTHORIZED SIGNATURE

Printed Name: Jeremy Dressler

Title: Governmental Account Mana

713-204-9328
PHONE NUMBER

dresslerj@cintas.com
EMAIL ADDRESS

2021-794815
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:
Stephen D. Gay
FEB48BB9726E4A9...
SIGNATURE

Stephen D. Gay
PRINTED NAME

Director, Water Utilities
TITLE

Water Utilities
DEPARTMENT

CITY OF DENTON, TEXAS

SARA HENSLEY, INTERIM CITY MANAGER

DocuSigned by:
BY: Sara Hensley
5236DB296270423...

ATTEST:
ROSA RIOS, CITY SECRETARY

DocuSigned by:
BY: Rosa Rios
1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
CATHERINE CLIFTON, INTERIM CITY ATTORNEY

DocuSigned by:
BY: Marcella Lunn
4B070831B4AA438...

File 7738

DocuSign Envelope ID: D10AF2C2-9E3D-44C3-AC95-68507C07B6E1

Exhibit A
Special Terms and Conditions

1. 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 three (3) one-year periods.

The contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. At the sole option of the City of Denton, the contract may be further extended as needed, not to exceed a total of six (6) months.

2. Total Contract Amount

The contract total shall not exceed $2,153,000. Pricing shall be per Exhibit C attached.

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Exhibit C

Location No. 12M-Coppell
Contract No._____
Customer No._____
Main Corporate Code ★ **New CC 13218**

Date 7/8/2021

Customer/Participating Agency CityofDenton,TX Phone 940-349-7172

Address 215E.McKinneyStreet(SeeAttachmentB) City Denton State TX Zip 76201

UNIFORM PRODUCT RENTAL PRICING:

Item #	Description	Unit Price
	See Attachment A	

- The contract term will be three (3) years, effective from date of award. The City and the Supplier shall have the option to renew this contract for an additional three (3) one-year periods. The length of this rental agreement will commence with the actual date of award, not affiliated with the start date of the Master Agreement. Any negotiations of price, terms or discounts must be approved by Prince William County Public Schools for the Master Agreement. Any such changes shall take effect on the anniversary date of the master agreement. All requests for price changes must be justified and based upon verifiable criteria which may include the Bureau of Labor Statistics Consumer Price Index (CPI-U).
- Name Emblem $ AttachmentA ea ● Company Emblem $ Attachment A ea
- Customer Emblem $ AttachmentA ea ● Embroidery $ Attachment A ea
- COD Terms $ NA per week charge for prior service (if Amount Due is Carried to Following Week)
- Automatic Lost Replacement Charge: Item _____ % of Inventory _____ $ _____ Ea.
- Automatic Lost Replacement Charge: Item _____ % of Inventory _____ $ _____ Ea.
- Minimum Charge $ 35.00 per delivery.
- Make-Up charge $ Attachment A per garment.
- Non-Standard/Special Cut Garment (i.e., non-standard, non-stocked unusually small or large sizes, unusually short or long sleeve or length, etc.) premium $ AttachmentA per garment.
- Seasonal Sleeve Change $ Attachment A per garment.
- Under no circumstances will the Company accept textiles bearing free liquid. Shop towels may not be used to clean up oil or solvent spills.
- Artwork Charge for Logo Mat $ 150.00ifrequested
- Size Change: Customer agrees to have employees measured by a Cintas representative using garment "size samples". A charge of $ AttachmentA per garment will be assessed for employee's size changed within 4 weeks of installation.
- Other: PricingandtermsperOMNIAcooperativecontract#R-BB-19002

FACILITY SERVICES PRODUCTS PRICING:

Bundle*	Item #	Description	Rental Freq.	Inventory	Unit Price
		See Attachment A			

*Indicated bundled items/services

____ ____ Initial and check box if Unilease. All Garments will be cleaned by customer
Date

____ ____ Initial and check box if receiving Linen Service. Company will take periodic physical inventories of items in possession or under control
Date customer.

____ ____ Initial and check box if receiving direct embroidery. If service is discontinued for any employee or Customer deletes any of the garments
Date direct embroidery for any reason, or terminates this agreement for any reason or fails to renew this agreement, Customer will purchase all direct embroidered garments at the time they are removed from service at the then current replacement values.

CUSTOMER:

Cintas Loc. No: 12M-Coppell Please Sign Name _____

By: JeremyDressler Please Print Name _____

Title: GovernmentalAccountManager Please Print Title _____

Accepted-GM: _____ Email

DocuSign Envelope ID: D10AF2C2-9E3D-44C3-AC95-68507C07B6E1

Omnia Partners Public Sector Participating Public Agencies Terms

1. Participating Public Agencies: Supplier agrees to extend the same terms, covenants agreed to under the Master Agreement with Lead Public Agency Prince William County Public Schools to other government agencies ("Participating Public Agencies") that, in their discretion, desire to access the Master Agreement in accordance with all terms and conditions contained herein or attached hereto. Each participating Public Agency will be exclusively responsible and deal directly with Supplier on matters relating to length of agreement, ordering, delivery, inspection, acceptance, invoicing, and payment for products and services in accordance with the terms and conditions of the Master Agreement. Any disputes between a Participating Public Agency and Supplier will be resolved directly between them in accordance with and governed by the laws of the State in which the Participating Public Agency exists.

2. Master Agreement available at https://www.omniapartners.com/publicsector

Supplier General Service Terms Section

3. **Prices** Customer agrees to rent from Company, and Company agrees to provide to Customer, the Merchandise, inventory and services described on Exhibit A, "Merchandise & Pricing" at the prices set forth in Exhibit A. There will be a minimum charge of thirty-five dollars ($35.00) per week for each Customer location required to purchase its rental services from Company as set forth in this Agreement.

4. **Buyback of Non-Standard Garments:** Customer has ordered from Company a garment rental service requiring embroidered garments that may not be standard to Company's normal rental product line. Those non-standard products will be designated as such under-Garment Description in Exhibit C. In the event Customer deletes a non-standard product, alters the design of the non-standard product, fails to renew the Agreement, or terminates the Agreement for any reason other than documented quality of service reasons which are not cured, Customer agrees to buy back all remaining non-standard products allocated to Customer that the Company has in service and out of service at the then current Loss/Damage Replacement Values.

5. **Service Guarantee:** Company guarantees to deliver the highest quality textile rental service at all times. Any complaints about the quality of the service which have not been resolved in the normal course of business must be sent by registered letter to Company's General Manager. If Company then fails to resolve any material complaint in a reasonable period of time, Customer may terminate this agreement provided all rental items are paid for at the then current replacement values or returned to Company in good and usable condition.

6. **Garments' Lack of Flame Retardant or Acid Resistant Features** Unless specified otherwise in writing by the Company, the garments supplied under this Agreement are not flame retardant or acid resistant and contain no special flame retardant or acid resistant features. They are not designed for use in areas of flammability risk or where contact with hazardous materials is possible. Flame resistant and acid resistant garments are available from Company upon request. Customer warrants that none of the employees for whom garments are supplied pursuant to this Agreement require flame retardant or acid resistant clothing.

7. **High Visibility Garments**. City bears sole responsibility for: (a) determining the level of visibility needed by wearers of the high visibility garments (the "Hi-Vis", and together with the FRC, the "Garments") for their specific work conditions or uses; (b) identifying and selecting which Hi-Vis meet the required level of visibility for any particular work conditions or uses; and (c) determining when Hi-Vis require repair or replacement to meet the required level of visibility. City acknowledges and understands that the Hi-Vis alone do not ensure visibility of the wearer. City further acknowledges that Bidder is relying upon City to determine whether any Hi-Vis need repair or replacement to maintain the required level of visibility. Bidder represents only that the Hi-Vis supplied satisfy certain ANSI/ISEA standards to the extent the Hi-Vis are so labeled. City acknowledges that Bidder has made no other representations, covenants or warranties, whether express or implied, related to the Hi-Vis. Further, City hereby releases Bidder from any and all liability that results or might result from the failure of the Hi-Vis to function per ANSI/ISEA standards, and further agrees to defend, indemnify, and hold the Bidder harmless from any claims that result or might result from any such failure.

8. **Logo Mats** In the event that Customer decides to delete any mat bearing the Customer's logo (Logo Mat) from the rental program, changes the design of the Logo Mats, terminates this agreement for any reason or fails to renew this Agreement, the Customer will purchase at the time of deletion, design change or termination, all remaining Logo mats that the Company has in service and out of service held in inventory at the then current Loss/Damage Replacement Value.

9. **Adding Employees** Additional employees and Merchandise may be added to this Agreement at any time upon written or oral request by the Customer to the Company. Any such additional employees or Merchandise shall automatically become a part of and subject to the terms of this Agreement. If such employees are employed at a Customer location that is then participating under this Agreement, the Customer shall pay Company the one-time preparation fee indicated on Exhibit A. Customer shall not pay Company any one-time preparation fee for garments for employees included in the initial installation of a Customer location. There will be a one-time charge for name and/or company emblems when employees are added to the program in garments requiring emblems.

10. **Emblem Guarantee** Customer has requested that Company supply emblems designed exclusively for Customer featuring Customer's logo or other specific identification (hereinafter "Customer Emblems"). Company will maintain a sufficient quantity of Customer Emblems in inventory to provide for Customer's needs and maintain a low cost per emblem through quantity purchases.

11. In the event Customer decides to discontinue the use of Customer Emblems, changes the design of the Customer Emblems, terminates this Agreement for any reason or fails to renew this Agreement, the Customer will purchase at the time of deletion, design change, termination or expiration, all remaining Customer Emblems that the Company allocated to Customer at the price indicated on Exhibit A of this Agreement. In no event shall the number of Customer Emblems allocated to Customer exceed the greater of (a) twelve (12) months' volume for each unique Customer Emblem or (b) a quantity agreed to by Company and Customer and noted on Exhibit A.

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12. **Terminating Employees** Subject to the provisions of this Agreement, the weekly rental charge attributable to any individual leaving the employ of the Customer, or on a temporary leave of absence of three (3) weeks or more, shall be terminated upon oral or written notice by the Customer to the Company but only after all garments issued to that individual, or value of same at the then current Loss/Damage Replacement Values, are returned to Company.

13. **Replacement** In the event any Merchandise is lost, stolen or is not returned to Company, or is destroyed or damaged by fire, welding damage, acid, paint, ink, chemicals, neglect or otherwise, the Customer agrees to pay for said Merchandise at the then current Loss/Damage Replacement Values.

14. **Indemnification** To the fullest extent permitted by law, Company agrees to defend, indemnify, pay on behalf of and save harmless the Participating Public Agency, its elected and appointed officials, agents, employees and authorized volunteers against any and all claims, liability, demands, suits or loss, including reasonable attorneys' fees and all other costs connected therewith, arising out of or connected to the services provided by Company under this Contract, but only to the extent of Company's negligence.

15. **Additional Items:** Additional customer employees, products and services may be added to this agreement and shall automatically become a part of and subject to the terms hereof and all of its provisions. If this agreement is terminated early for convenience, the parties agree that the damages sustained by Company will be substantial and difficult to ascertain. Therefore, if this agreement is terminated by Customer prior to the applicable expiration date for any reason other than documented quality of service reasons which are not cured, or terminated by Company for non-payment by Customer at any time Customer will pay to Company, as termination charges and not as a penalty based upon the following schedule:

    If this agreement is cancelled for convenience in the first twelve (12) months of the term, Customer shall pay as termination charges equal to 50 weeks of rental service.

    If this agreement is cancelled for convenience in months thirteen (13) through eighteen (18) of the term, Customer shall pay as termination charges equal to 36 weeks of rental service.

    If this agreement is cancelled for convenience in months nineteen (19) through twenty-four (24) of the term, Customer shall pay as termination charges equal to 23 weeks of rental service.

    If this agreement is cancelled for convenience after 24 months of service, Customer shall pay as termination charges of 10 weeks of rental service.

    Customer shall also be responsible to return all of the Merchandise allocated to such Customer locations terminating this Agreement at the then current Loss/Damage Replacement Values and for any unpaid charges on Customer's account prior to termination.

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Cintas/City of Denton - Attachment A: Pricing

Item #	Uniform Program	Weekly Unit Pricing	Lost/Replacement Charge
205/271	Women's Comfort Shirt	$0.17	$ 17.00
259	Polo w/Pocket	$0.23	$ 20.00
270	Cargo Pants	$0.30	$ 27.00
273	High Image Workshirt	$0.24	$ 23.00
275	Performance Polo	$0.28	$ 28.00
280	Carhartt FR 5-Pocket Jeans	$0.56	$ 49.00
290	Carhartt FR Carpenter Jeans	$0.56	$ 49.00
294	Carhartt FR Shirt	$0.43	$ 49.00
330	Cotton Shirt	$0.24	$ 18.00
340	Cotton Pants	$0.34	$ 23.50
361	Soft Shell Jacket	$1.21	$ 56.00
370	Cargo Shorts	$0.30	$ 27.00
374	Oxford Shirt	$0.24	$ 22.00
376	Carhartt Active Jacket	$1.62	$ 85.05
381	Carhartt 5-Pocket Jean	$0.37	$ 27.00
382	Carhartt Carpenter Jean	$0.37	$ 30.00
383	Carhartt Dungaree Pant	$0.43	$ 25.00
384	Carhartt Work Shirt	$0.34	$ 25.00
387	Carhartt FR Featherweight Coverall	$1.23	$ 148.50
390/395	Women's Pants	$0.26	$ 21.00
392	Carhartt FR Featherweight Shirt	$0.55	$ 72.00
393	Women's Carhartt Jean	$0.70	$ 45.00
394	Cintas Jean	$0.29	$ 20.00
396	Carhartt Rugged-Flex Shirt	$0.60	$ 49.50
677	Permalined Jacket	$0.40	$ 30.00
741	Plain Front Short	$0.22	$ 27.00
865	Pleated Pants	$0.27	$ 22.00
912	Poly-Cotton Coverall	$0.25	$ 30.00
935	Comfort Shirt	$0.16	$ 15.00
945	Comfort Pants	$0.18	$ 18.00
970	Hip Length Jacket	$0.35	$ 31.95
59935	Enhanced Visibility Shirt	$0.43	$ 30.60
59970	Enhanced Visibility Jacket	$0.85	$ 46.00
61356	FR Jacket #JLJ8NV	$0.95	$ 104.85
64356	FR Jacket Liner	$0.90	$ 108.00
64251	Chef Works Lightweight Cook Shirt	$0.23	$ 8.00
64449	Chef Works Signature Coat	$0.32	$ 12.00
65177	Chef Works Pant	$0.30	$ 26.00
65418	High Visibility ANSI Shirt	$0.70	$ 53.10
66273	Women's High Image Shirt	$0.24	$ 23.00
66275	Women's Performance Polo	$0.28	$ 28.00
66528	Women's Oxford Shirt	$0.24	$ 19.00
74533	Carhartt Ripstop Pant	$0.55	$ 54.00
74303	Cowboy Cut Jeans	$0.41	$ 34.00
8000	8-Bank Locker	$0.00	$ 500.00
8004	Soil Bin	$0.00	$ 200.00
	Minimum Charge (Minimum Invoice allowed)	$35.00	NA
	Service Charge / Delivery Fee	$0.00	NA
	Size Premium	$0.05	NA
	Uniform Advantage (per garment)	$0.07	NA
	Premium Uniform Advantage (High-Vis or FRC)	$0.14	NA
	Emblem Advantage Program (per garment with emblems)	$0.06	NA
	Embroidery/Emblem Advantage (per embroidered garment)	$0.12	NA
	Employee Name Emblem (if not using Emblem Adv.)	$1.50	NA
	Custom Company Emblem (if not using Emblem Adv.)	$2.50	NA
	Preparation Advantage Program (per garment)	$0.04	NA
	Make-Up / Garment Prep (if not using Prep Adv.)	$1.50	NA
	Direct Embroidery	$4.95	NA
	Seasonal Sleeve Change	$12.00	NA
	Size Changes (within 4 weeks of each other)	$6.00	NA
	Floor Mats		
84301	3x5 Logo Mat	$2.40	$83.00
84401	4x6 Logo Mat (requires buyback)	$6.30	$162.00
84001	3x10 Logo Mat (requires buyback)	$7.20	$202.50

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84302	3x5 Safety Mat	$3.25	$65.00
842XX	3x4 Carpet Mat	$2.87	$40.50
843XX	3x5 Carpet Mat	$2.87	$40.50
844XX	4x6 Carpet Mat	$3.54	$63.00
840XX	3x10 Carpet Mat	$4.22	$81.00
10196	3x5 Traffic Mat	$2.00	$46.00
10197	4x6 Traffic Mat	$7.20	$99.00
10198	3x10 Traffic Mat	$8.10	$135.00
10199	4x8 Traffic Mat	$8.68	$162.00
10188	3x5 Xtraction mat	$5.80	$91.00
10189	3x5 Xtraction mat	$5.80	$92.00
10223	3x5 Xtraction mat	$5.80	$93.00
10191	4x6 Xtraction mat	$6.62	$117.00
10192	4x6 Xtraction mat	$6.62	$117.00
10224	4x6 Xtraction mat	$6.62	$117.00
10201	3x10 Xtraction mat	$7.45	$153.00
10202	3x10 Xtraction mat	$7.45	$153.00
10225	3x10 Xtraction mat	$7.45	$153.00
2477	3x5 Scraper Mat	$2.43	$40.50
2478	4x6 Scraper Mat	$2.72	$74.00
10184	3x5 Active Scraper Mat	$3.15	$90.00
1800	3x5 Coffee Mat	$3.65	$58.50
1801	2x3 Spring Step	$1.50	$52.00
1802	3x5 Spring Step	$2.25	$65.00
1810	3x5 Duralite Mat	$2.63	$72.00
1917	3x5 Wellness Mat	$4.00	$99.00
5477	3x5 Photo Safety Mat	$4.50	$58.50
5479	3x5 Photo Coffee Mat	$4.50	$58.50
5480	3x5 Photo Water Mat	$4.50	$58.50
5487	3x5 Photo Mat (requires buyback)	$6.30	$112.50
5488	4x6 Photo Mat (requires buyback)	$7.20	$162.00
5489	3x10 Photo Mat (requires buyback)	$8.10	$202.50
5471	4x6 Photo Local Mat (requires buyback)	$6.30	$162.00
	Mops		
2570	24" Dust Mop	$0.84	$7.20
1946	24" Dust Mop Frame	NA	$9.00
2590	36" Dust Mop	$1.13	$9.00
1947	36" Dust Mop Frame	NA	$9.00
2604	48" Dust Mop	$1.38	$10.80
1948	48" Dust Mop Frame	NA	$9.00
2610	60" Dust Mop	$1.58	$14.40
1045	60" Dust Mop Frame	NA	$9.00
6924	Wood Dust Mop Handle	NA	$9.00
2650	Large Wet Mop	$1.35	$10.80
6913	24 oz. Synthetic Mop	$1.50	$15.00
6923	Fiberglass Wet Mop Handle	NA	$9.00
7116	12" Microfiber Mop Orange	$0.18	$5.00
7117	12" Microfiber Mop Frame (Healthcare only)	NA	$8.55
7000	20" Microfiber Mop Head	$1.35	$5.85
7002	20" Microfiber Mop Frame (Healthcare only)	NA	$9.00
7001	36" Microfiber Mop	$0.45	$12.00
7003	36" Microfiber Mop Frame (Healthcare only)	NA	$13.50
7245	Microfiber Mop Handle	$0.80	$10.00
6930	Microfiber Mop Container	$13.50	$81.00
7432	12"x12" Microfiber Wiper (Blue)	$0.16	$2.16
7433	12"x12" Microfiber Wiper (Orange)	$0.16	$2.16
7717	16"x16" Microfiber Wiper (White)	$0.16	$1.17
8020	Microfiber Tube Mop	$2.25	$18.00
9581	Dual Chamber Mop Bucket	$2.50	$125.00
9582	Pulse Mop	$1.75	$110.00
	Hygiene Items		
6116	Micromist Air Freshener Service	$2.88	$22.50
6123	Micromist Air Freshener Refill	NA	NA
6122	Micromist Air Freshener Refill - Mango	NA	NA
6119	Micromist Air Freshener Refill - Citrus Slice	NA	NA
9295	Micromist Air Freshener Refill - Clean Breeze	NA	NA
6124	Micromist Air Freshener Refill - Cinnamon	NA	NA

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9016	Micromist Air Freshener Dispenser - White	NA	$22.50
6680	Restroom Mat Service (weekly charge)	$1.80	$7.20
7464	Restroom Mat Refill	NA	NA
9210	Urinal Screen Service	$1.05	$4.00
9338	Alcohol Foam Sanitizer Service - 1000 mL	$4.95	NA
9329	Alcohol Foam Sanitizer Refill - 1000 mL	NA	NA
9314	Heavy Duty Scrub Soap Service - 1000 mL	$2.00	$25.00
9315	Heavy Duty Soap Scrub Refill - 1000 mL	NA	NA
9326	Antibacterial Foam Soap Service - 800 mL	$2.22	$22.50
9327	Antibacterial Foam Soap Refill - 800 mL	NA	NA
9312	Moisturizing Soap Service - 1000 mL	$1.78	$22.50
9313	Moisturizing Soap Refill - 1000 mL	$0.00	$8.00
9332	Antibacterial Gel Soap Service - 1000mL	$1.50	$25.00
9333	AB Gel Soap Refill (Food Service) - 1000 mL	NA	NA
9320	Hair & Body Wash Service - 1000 mL	$2.00	$22.50
9321	Hair & Body Wash Refill - 1000 mL	NA	NA
9322	Instant Hand Sanitizer Service - 1000 mL	$2.75	$22.50
9323	Instant Hand Sanitizer Refill - 1000 mL	NA	NA
9980	Soap Dispenser - White	NA	$22.50
9982	Auto Soap Dispenser - White	NA	$31.50
9025	Centerpull Paper Towel Roll (by the roll)	$6.30	$18.00
9110	Jumbo Toilet Tissue Roll (by the roll)	$4.50	$18.00
9305	Electronic Paper Dispenser	NA	$99.00
7699	Centerpull Paper Towel Case (qty. 6)	$42.30	NA
7702	Jumbo Toilet Tissue Case (qty. 12)	$46.80	NA
	Linen Items		
2161	Shop Towel - White	$0.13	$0.41
2160	Shop Towel - Red	$0.06	$0.41
2169	Shop Towel - Blue	$0.06	$0.41
2173	Glass Towel - Red	$0.21	$1.19
2864	Bib Apron - White	$0.32	$3.96
2873	Bib Apron - Black	$0.32	$3.96
2861	Bib Apron - Red	$0.32	$3.96
2700	Terry Towel	$0.13	$1.17
2964	Stripe Swipe Towel	$0.17	$1.17
2750	Ribbed Terry Towel	$0.13	$1.17
2702	Blue Terry Towel	$0.13	$1.17
2921	Stripe Glass Towel	$0.17	$1.17
2701	#2 Terry Towel	$0.13	$1.17
3035	Grill Pad	$0.11	$1.76
6116	Micromist Air Freshener Service	$2.88	$22.50
6123	Micromist Air Freshener Refill	NA	NA
6122	Micromist Air Freshener Refill - Mango	NA	NA
6119	Micromist Air Freshener Refill - Citrus Slice	NA	NA
9295	Micromist Air Freshener Refill - Clean Breeze	NA	NA
6124	Micromist Air Freshener Refill - Cinnamon	NA	NA
9016	Micromist Air Freshener Dispenser - White	NA	$22.50
6680	Restroom Mat Service (weekly charge)	$1.80	$7.20
7464	Restroom Mat Refill	NA	NA
	Safewasher		
7418	Safewasher Service 23	$26.99	$1,485.00
7419	Safewasher Service 25	$26.99	$1,485.00
7420	Safewash Service Fluid Refill	$0.00	$13.05
7524	Safewasher Filter	NA	$12.60
	Cleaning Chemicals		
7600	2 or 3 Button Dispenser Install Fee* (One Time Charge)	$45.00	NA
7619	Foamer Dispenser Install Fee (One Time Charge)	$22.50	NA
7500	Cleaning Chemical Dispenser Maintenance Fee	$2.70	$333.00
7550	3 Compartment Sink Chemical Dispenser Maintenance Fee	$2.70	$301.50
2294	Foaming Chemical Dispenser Maintenance Fee	$2.70	$180.00
2271	FC1 - Heavy Duty Cleaner	$1.26	NA
2274	FC2 - Bio Based Floor Cleaner	$1.53	NA
2282	FC3 - Industrial Floor Cleaner/Degreaser	$2.52	NA
2272	FC4 - Neutral Floor Cleaner	$0.72	NA
2295	RR1 - Heavy Duty Restroom Cleaner/Disinfectant - Mop Bucket	$1.40	NA
2275	GL1 - Glass & Multi Surface Cleaner	$1.80	NA
2276	RR1 - Heavy Duty Restroom Cleaner/Disinfectant - Bottle	$2.75	NA

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2277	OC1 - Odor Counteractant/Fabric Freshener	$5.40	NA
7544	FC1 - Heavy Duty Cleaner - Bottle	$1.26	NA
2281	DG1 - Heavy Duty Foaming Degreaser - Bottle/Foamer	$1.35	NA
2278	SK1 - Pot & Pan Detergent	$1.08	NA
2279	SK2 - Sink Sanitizer	$1.08	NA
7670	Trigger Sprayer	$0.00	$4.50
7574	Trigger Sprayer Labels	NA	$1.80
7716	Quat Strips	NA	$6.26
	*** Required for all Chemical Customers**		
	Ultraclean		
7705	Sanis Ultraclean Base Charge	$27.00	NA
7706	Sanis Ultraclean Square Foot Charge	$0.18	NA
* Weekly or EOW Billing Example: 4 restrooms measure 400 sq ft; 400 sq ft x $.20 = $80.00 + $30.00 Base Charge = $110.00			
* Monthly Billing Example: 4 restrooms measure 400 sq ft; 400 sq ft x $.20 = $80.00 + $50.00 Base Charge = $130.00			
	Signature Series		
27071	SIG DUALTP DSP ALU	$0.00	$31.50
27081	SIG DUALTP DSP STEEL	$0.45	$67.50
27073	SIG DUALTP CVR RED	$0.00	$18.00
27074	SIG DUALTP CVR WHITE	$0.00	$18.00
27075	SIG DUALTP CVR STGRY	$0.00	$18.00
27076	SIG DUALTP CVR BLACK	$0.00	$18.00
27077	SIG DUALTP CVR BLUE	$0.00	$18.00
27078	SIG DUALTP CVR SND	$0.00	$18.00
27079	SIG DUALTP CVR LIME	$0.00	$18.00
27080	SIG DUALTP CVR ORANG	$0.00	$18.00
27083	SIG DUALTP RFL PAPER	$16.20	$16.20
27000	SIG ZFOLD DSP ALU	$0.00	$22.50
27010	SIG ZFOLD DSP STEEL	$0.45	$103.50
27002	SIG ZFOLD CVR RED	$0.00	$18.00
27003	SIG ZFOLD CVR WHITE	$0.00	$18.00
27004	SIG ZFOLD CVR STGRY	$0.00	$18.00
27005	SIG ZFOLD CVR BLACK	$0.00	$18.00
27006	SIG ZFOLD CVR BLUE	$0.00	$18.00
27007	SIG ZFOLD CVR SND	$0.00	$18.00
27008	SIG ZFOLD CVR LIME	$0.00	$18.00
27009	SIG ZFOLD CVR ORANGE	$0.00	$18.00
27012	SIG ZFOLD RFL PAPER	$28.80	$28.80
20005	SIG AUTOPAPR RED ALU	$0.45	$157.50
20006	SIG AUTOPAPR WHT ALU	$0.45	$157.50
20007	SIG AUTOPAPR GRY ALU	$0.45	$157.50
20008	SIG AUTOPAPR BLK ALU	$0.45	$157.50
20009	SIG AUTOPAPR BLU ALU	$0.45	$157.50
20010	SIG AUTOPAPR SND ALU	$0.45	$157.50
20011	SIG AUTOPAPR LME ALU	$0.45	$157.50
20012	SIG AUTOPAPR ORG ALU	$0.45	$157.50
20023	SIG PREMIUM HW TOWEL	$8.91	$8.91
27097	SIG TRASHCAN DSP ALU	$0.90	$112.50
27107	SIG TRASHCAN DSP STL	$1.80	$270.00
27099	SIG TRASHCAN CVR RED	$0.00	$67.50
27100	SIG TRASHCAN CVR WHT	$0.00	$67.50
27101	SIG TRASHCAN CVR GRY	$0.00	$67.50
27102	SIG TRASHCAN CVR BLK	$0.00	$67.50
27103	SIG TRASHCAN CVR BLU	$0.00	$67.50
27104	SIG TRASHCAN CVR SND	$0.00	$67.50
27105	SIG TRASHCAN CVR LME	$0.00	$67.50
27106	SIG TRASHCAN CVR ORG	$0.00	$67.50
27109	SIG TRASHCAN RFL BAG	$15.30	$15.30
27013	SIG AIR DSP ALU	$0.00	$18.00
27025	SIG AIR DSP STEEL	$0.45	$54.00
27015	SIG AIR CVR RED	$0.00	$18.00
27016	SIG AIR CVR WHITE	$0.00	$18.00
27017	SIG AIR CVR STGRY	$0.00	$18.00
27018	SIG AIR CVR BLACK	$0.00	$18.00
27019	SIG AIR CVR BLUE	$0.00	$18.00
27020	SIG AIR CVR SND	$0.00	$18.00
27023	SIG AIR CVR LIME	$0.00	$18.00
27024	SIG AIR CVR ORANGE	$0.00	$18.00

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27026	SIG AIR SVC	$3.42	NA
27027	SIG AIR RFL CLEAN	$0.00	NA
27028	SIG AIR RFL MANGO	$0.00	NA
27029	SIG AIR RFL CITRUS	$0.00	NA
27030	SIG AIRADV DSP ALU	$0.45	$36.00
27040	SIG AIRADV DSP STEEL	$0.90	$72.00
27032	SIG AIRADV CVR RED	$0.00	$18.00
27033	SIG AIRADV CVR WHITE	$0.00	$18.00
27034	SIG ARADV CVR STGRY	$0.00	$18.00
27035	SIG ARADV CVR BLACK	$0.00	$18.00
27036	SIG ARADV CVR BLUE	$0.00	$18.00
27037	SIG ARADV CVR SND	$0.00	$18.00
27038	SIG ARADV CVR LIME	$0.00	$18.00
27039	SIG ARADV CVR ORANG	$0.00	$18.00
27026	SIG AIR SVC	$3.42	NA
27027	SIG AIR RFL CLEAN	$0.00	NA
27028	SIG AIR RFL MANGO	$0.00	NA
27029	SIG AIR RFL CITRUS	$0.00	NA
27045	SIG AUTOSOAP DSP ALU	$0.45	$76.50
27055	SIG AUTOSOAP DSP STL	$0.90	$117.00
27047	SIG AUTOSOAP CVR RED	$0.00	$18.00
27048	SIG AUTOSOAP CVR WHT	$0.00	$18.00
27049	SIG AUTOSOAP CVR GRY	$0.00	$18.00
27050	SIG AUTOSOAP CVR BLK	$0.00	$18.00
27051	SIG AUTOSOAP CVR BLU	$0.00	$18.00
27052	SIG AUTOSOAP CVR SND	$0.00	$18.00
27053	SIG AUTOSOAP CVR LME	$0.00	$18.00
27054	SIG AUTOSOAP CVR ORG	$0.00	$18.00
27069	SIG SOAP SVC	$1.98	NA
27070	SIG SOAP RFL FOAM	$0.00	NA
08071	SIG SANT ALC FM RFL	$0.00	NA
08072	SIG SANT SVC	$2.79	NA
09560	SIG AB SOAP SVC	$2.52	NA
09561	SIG AB SOAP RFL	$0.00	NA
09559	SIG HND SANTZR STAND	$2.03	$225.00
27058	SIG SOAP DSP ALU	$0.00	$27.00
27068	SIG SOAP DSP STEEL	$0.45	$76.50
27060	SIG SOAP CVR RED	$0.00	$18.00
27061	SIG SOAP CVR WHITE	$0.00	$18.00
27062	SIG SOAP CVR STGRY	$0.00	$18.00
27063	SIG SOAP CVR BLACK	$0.00	$18.00
27064	SIG SOAP CVR BLUE	$0.00	$18.00
27065	SIG SOAP CVR SND	$0.00	$18.00
27066	SIG SOAP CVR LIME	$0.00	$18.00
27067	SIG SOAP CVR ORANGE	$0.00	$18.00
27069	SIG SOAP SVC	$1.98	NA
27070	SIG SOAP RFL FOAM	$0.00	NA
08071	SIG SANT ALC FM RFL	$0.00	NA
08072	SIG SANT SVC	$2.79	NA
09560	SIG AB SOAP SVC	$2.52	NA
09561	SIG AB SOAP RFL	$0.00	NA
27084	SIG CLNSEAT DSP ALU	$0.00	$27.00
27094	SIG CLNSEAT DSP STL	$0.45	$67.50
27086	SIG CLNSEAT CVR RED	$0.00	$18.00
27087	SIG CLNSEAT CVR WHT	$0.00	$18.00
27088	SIG CLNSEAT CVR GRY	$0.00	$18.00
27089	SIG CLNSEAT CVR BLK	$0.00	$18.00
27090	SIG CLNSEAT CVR BLU	$0.00	$18.00
27091	SIG CLNSEAT CVR SND	$0.00	$18.00
27092	SIG CLNSEAT CVR LME	$0.00	$18.00
27093	SIG CLNSEAT CVR ORG	$0.00	$18.00
27095	SIG CLNSEAT SVC	$2.66	NA
27096	SIG CLNSEAT RFL	$0.00	NA
27110	SIG AUTODRIP DSP ALU	$0.00	$31.50
27120	SIG AUTODRIP DSP STL	$0.45	$67.50
27112	SIG AUTODRIP CVR RED	$0.00	$18.00
27113	SIG AUTODRIP CVR WHT	$0.00	$18.00

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27114	SIG AUTODRIP CVR GRY	$0.00	$18.00
27115	SIG AUTODRIP CVR BLK	$0.00	$18.00
27116	SIG AUTODRIP CVR BLU	$0.00	$18.00
27117	SIG AUTODRIP CVR SND	$0.00	$18.00
27118	SIG AUTODRIP CVR LME	$0.00	$18.00
27119	SIG AUTODRIP CVR ORG	$0.00	$18.00
27121	SIG AUTODRIP SVC	$3.15	$31.50

All Facility Service items priced above for weekly service. EOW service will have unit price multiplied by 1.5. Monthly Service will have unit price multiplied by 2.5. All Hygiene items priced above for weekly service and a monthly changeout. EOW changeouts will have unit price multiplied by 2. Weekly changeouts will have unit price multiplied by 4.

Additional items may be added to the program, provided Company offers Customer Omnia approved pricing

Cintas Acceptance (Company):

Name: _____

Title: _____

Signature: _____

Date: _____

City of Denton Acceptance (Customer):

Name:

Title:

Signature:

Date:

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Cintas/City of Denton Agreement - Attachment 8: Delivery Locations

Department Name	Delivery Address
Municipal Electric	8161Jim Christal Road,Denton,TX
Fleet Landfill Office	1527 S. Mayhill Road,Denton,TX
Wastewater	901Texas Street,#A,Denton,TX
Police Department	601E. Hickory Street, UnitE,Denton,TX
City Hall	215 E. McKinney Street, Denton, TX
Purchasing Department	901Texas Street, #B,Denton,TX
Water Metering	901Texas Street, #B,Denton,TX
Streets	1701Spencer Street, #B,Denton,TX
Engineering Department	901Texas Street, #A,Denton,TX
Airport	5000 Airport Road,Denton,TX
Landfill	901Texas Street, #B,Denton,TX
Water Reclamation	1100 Mayhill Street, Denton,TX
Traffic	869 S. Woodrow Lane,Denton,TX
PublkUbray	3020 N. Locust Street,Deton,TX
DME	3228 Teasley Lane,Denton,TX
Public Libray	502 Oakland Street,Denton,TX
Parks & Recreation	9401Lake Ray Roberts Dam Rd,Aubrey,TX
Denton Office	608 E. Hickory Street,#12,Denton,TX

Additional City of Denton departments/facilities can be added for service,provided there is a minimum of 24 months remaining on the agreement.

Cintas Acceptance (Company):	City of Denton Acceptance (Customer):
Name:	Name:
Title:	Title:
Signature:	Signature:
Date:	Date:

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Cintas/City of Denton - Attachment C: Buyback Items

Buybacks will not be enforced with this agreement, provided the garments utilized in the program are the Cintas item numbers located in Attachment A, AND those garments do not require direct embroidery or emblems that do not conform to the standard emblem sizes and emblem placements used on the garments listed in Attachment A. If customer elects to utilize an emblem of a non-standard size (i.e. - circle-shaped, larger or smaller than standard emblems, etc.), elects to have the emblems on a non-standard location (shoulder, back, etc.), or elects to have the garments direct embroidered, those garments will be subject to a buyback at the replacement costs listed on Attachment A.

Cintas Acceptance (Company):	**City of Denton Acceptance (Customer):**
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Signature: _____	**Signature:** _____
Date: _____	**Date:** _____

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Cintas/City of Denton Agreement - Non-Appropriation of Funds

It is specifically understood and agreed, that in the event funds or insufficient funds are appropriated and/or budgeted concerning the obligations under this Agreement on behalf of the City of Denton, then the City of Denton shall notify Cintas and this Agreement shall therafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability, or expense to the department(s) directly impacted by the insufficient funding for the City of Denton.

Cintas Acceptance (Company):	**City of Denton Acceptance (Customer):**
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Signature: _____	**Signature:** _____

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Cintas/City of Denton Agreement - Flame Resistant Garments

Cintas Corporation agrees to provide services to the agreed upon locations of the City of Denton as governed by the Facility Solutions Agreement entered into on _____ by and between Cintas Corporation (Company) and the City of Denton (Customer). Both parties agree to the terms below:

1. Customer bears full responsibility for selecting the fabrics under this agreement. Customer acknowledges that Company has made no warranty or covenant with respect to the flame-resistant qualities of the fabrics or garments or with respect to the fitness or suitability of the fabrics or garments for this purpose. Customer acknowledges that numerous manufacturers market fabrics represented to be flame-resistant. Company makes no independent representation as to the flame-resistant qualities of the fabric selected by Customer as compared to other available fabrics or fabrics which may become available in the future except that, to Company's knowledge, the garments adhere to all applicable federal, state, and local safety laws, requirements, or guidance. Customer agrees to noify all employees of Customer who will be wearing the flame-resistant garments that the garments are not designed for long term high heat exposure or for use around open flames and that no representation is made as to the garment's ability to protect users from injury or death.

3. In consideration of the sizeable investment Company is making in flame-resistant garments, Customer guarantees Company minimum weekly revenue equal to 70% of the initial invoice; provided, however, the minimum weekly revenue amount will increase by an amount equal to 70% of any increases in the weekly invoice.

Cintas Acceptance (Company):	**City of Denton Acceptance (Customer):**
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Signature: _____	**Signature:** _____
Date: _____	**Date:** _____

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Cintas/City of Denton Agreement - Enhanced Visibility Garments

Cintas Corporation agrees to provide services to the agreed upon locations of the City of Denton as governed by the Facility Solutions Agreement entered into on _____ by and between Cintas Corporation (Company) and the City of Denton (Customer). Both parties agree to the terms below:

For high visibility garments, Customer bears sole responsibility for: (a) determining the level of visibility needed by wearers of the garments for their specific work conditions or uses; (b) identifying and selecting which garments meet the required level of visibility for any particular work conditions or uses; and (c) determining when garments require repair or replacement to meet the required level of visibility. If garment needs to be replaced outside of normal wear and tear, the Customer will be charged the then current replacement value, if not utilizing the Uniform Advantage Program. Customer acknowledges and understands that the garments alone do not ensure visibility of the wearer. Customer further acknowledges that Company is relying upon Customer to determine whether any garments need repair or replacement to maintain the required level of visibility. Company represents only that the garments supplied satisfy certain ANSI/ISEA standards to the extent the garments are so labeled. Customer acknowledges that Company has made no other representations, covenants, or warranties whether express or implied, related to the garments.

Cintas Acceptance (Company):	**City of Denton Acceptance (Customer):**
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Signature: _____	**Signature:** _____
Date: _____	**Date:** _____

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Exhibit D
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor or Supplier. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Supplier. No Terms and Conditions contained in the seller's proposal response, invoice or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, 22 and 32 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth the purchase order.

7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law,

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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, it's 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

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Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

Environmental Protection: The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq*.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq*.).

12. **INVOICES**:

A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:

A. All proper invoices need to be sent to Accounts Payable. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received in Accounts Payable, whichever is later.

B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.

D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

i. delivery of defective or non-conforming deliverables by the Contractor;

ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed;

iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

iv. damage to the property of the City or the City's agents, employees or contractors by the Contractor, which is not covered by insurance required to be provided by the Contractor;

v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual

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or damages for the anticipated delay;

vi. failure of the Contractor to submit proper invoices with purchase order number, with all required attachments and supporting documentation; or

vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given that any awarded firm who is in arrears to the City of Denton for delinquent taxes, the City may offset indebtedness owed the City through payment withholding.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES**: All travel, lodging and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the contract terms. During the term of this contract, the contractor shall bill and the City shall reimburse contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. **FINAL PAYMENT AND CLOSE-OUT**:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. **SPECIAL TOOLS & TEST EQUIPMENT**: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. **RIGHT TO AUDIT**:

A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within ten (10) business days of written

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request. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.
B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. **SUBCONTRACTORS**:
A. If the Contractor identified Subcontractors in a DBE/MBE/WBE agreed to Plan, the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.
B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

C. The Contractor shall be fully responsible to the City for all negligent acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own negligent acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. **WARRANTY-PRICE**:
A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

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C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **WARRANTY – TITLE**: The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. **WARRANTY – DELIVERABLES**: The Contractor warrants that it will launder FRC (as defined in the Omnia Agreement) consistent with industry standards for FRC and will not launder inconsistent with the FRC's manufacturer's warranty. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.
A. Recycled deliverables shall be clearly identified as such.
B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
C. Unless otherwise specified in the Contract, the Contractor warrants that the deliverables shall be of useable quality and, to the knowledge of Contractor, adheres to all applicable federal, state, and local safety laws, requirements, or guidance for at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources.
E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming

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services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all reasonable claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as mutually agreed to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. **STOP WORK NOTICE**: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. **DEFAULT**: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The 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

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by the City and may result in legal action.

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **INDEMNITY**:
A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF OR RESULTING FROM THE NEGLIGENT ACTS OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

32. **INSURANCE**: The following insurance requirements are applicable, in addition to the specific insurance requirements detailed in **Appendix A** for services only**.** The successful firm shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton.
A. General Requirements:

i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any

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warranty period.

ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

vii. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy.

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.

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;

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and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's' ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.

37. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all

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circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.

39. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

40. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

41. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability

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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.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

46. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is 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.

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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 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:

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New Year's Day (observed)
MLK Day
Memorial Day
4th 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 for a period of eighteen (18) months.

54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**
The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

55. **EQUAL OPPORTUNITY**
A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this RFQ.
B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -
(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-

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(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
v. "Foreign end product" means an end product other than a domestic end product.
vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

57. **RIGHT TO INFORMATION:** The City of Denton reserves the right to use any and all information presented in any response to this contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

58. **LICENSE FEES OR TAXES:** Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

60. **COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS:** The contractor or supplier shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

61. **FEDERAL, STATE, AND LOCAL REQUIREMENTS:** Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

62. **DRUG FREE WORKPLACE:** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is

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incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

63. **RESPONDENT LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY:** The Respondent shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Respondent shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

64. **FORCE MAJEURE:** The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

65. **NON-WAIVER OF RIGHTS:** Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

66. **NO WAIVER OF SOVEREIGN IMMUNITY:** The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

67. **RECORDS RETENTION:** The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Should a conflict arise between any of the contract documents, it shall be resolved with the following order of precedence (if applicable). In any event, the final negotiated contract shall take precedence over any and all contract documents to the extent of such conflict.

1. **Final negotiated contract**
2. **City's standard terms and conditions**
3. **Purchase order**
4. **Supplier terms and conditions**

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Exhibit E
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the contract is awarded, in accordance with Government Code 2252.908.

The contractor shall:

1. Log onto the State Ethics Commission Website at : https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

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Exhibit F
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.
    -

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

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SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

[X] A. **General Liability Insurance:**

General Liability insurance with combined single limits of not less than **$1,000,000.00** shall be provided and maintained by the Contractor. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

[X] **Automobile Liability Insurance:**

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than **$500,000** either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned hired and non-owned autos.

[X] **Workers' Compensation Insurance**

Contractor shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's

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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**

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Provides coverage for the theft or disappearance of cash or checks, robbery inside/outside the premises, burglary of the premises, and employee fidelity. The employee fidelity portion of this coverage should be written on a “blanket” basis to cover all employees, including new hires. This type insurance should be required if the contractor has access to City funds. Limits of not less than $_____ each occurrence are required.

[ ] **Additional Insurance**

Other insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the "Specific Conditions" of the contract specifications.

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ATTACHMENT 1

[ ] **Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities**

A. Definitions:

Certificate of coverage ("certificate")-A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any overage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1. a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

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

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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-

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Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

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Exhibit G

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.** CINTAS CORPORATION NO. 2

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 DocuSigned by: Jeremy Dressler

Signature of vendor doing business with the governmental entity

8/25/2021

Date

DocuSign

Certificate Of Completion

Envelope Id: D10AF2C29E3D44C3AC9568507C07B6E1
Status: Completed
Subject: Please DocuSign: City Council Contract 7738--Uniform and Accessories Rental
Source Envelope:
Document Pages: 43
Signatures: 6
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Crystal Westbrook
901B Texas Street
Denton, TX 76209
crystal.westbrook@cityofdenton.com
IP Address: 198.49.140.104

Record Tracking

Status: Original
8/13/2021 3:12:16 PM
Holder: Crystal Westbrook
crystal.westbrook@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Crystal Westbrook crystal.westbrook@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	**Completed** Using IP Address: 198.49.140.104	Sent: 8/13/2021 3:17:01 PM Viewed: 8/20/2021 1:44:14 PM Signed: 8/20/2021 1:45:47 PM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 8/20/2021 1:45:50 PM Viewed: 8/20/2021 3:43:54 PM Signed: 8/20/2021 3:45:49 PM
Marcella Lunn marcella.lunn@cityofdenton.com Catherine Clifton, Interim City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 68.185.202.16	Sent: 8/20/2021 3:45:51 PM Viewed: 8/20/2021 3:50:10 PM Signed: 8/20/2021 3:52:56 PM
Jeremy Dressler dresslerj@cintas.com Governmental Account Mana Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 8/21/2021 7:19:46 AM ID: 68bd7ec8-0157-4d10-b09d-49c94b9ab8d9	DocuSigned by: Jeremy Dressler 8108266A7799430... Signature Adoption: Pre-selected Style Using IP Address: 146.112.45.80	Sent: 8/20/2021 3:52:59 PM Viewed: 8/21/2021 7:19:46 AM Signed: 8/25/2021 9:58:02 AM

Signer Events	Signature	Timestamp
Stephen D. Gay stephen.gay@cityofdenton.com Director, Water Utilities Security Level: Email, Account Authentication (None)	DocuSigned by: Stephen D. Gay FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 8/25/2021 9:58:06 AM Viewed: 8/25/2021 10:09:32 AM Signed: 8/25/2021 10:16:14 AM
Electronic Record and Signature Disclosure: Accepted: 8/25/2021 10:09:32 AM ID: 83b22f38-83c1-47b4-a937-a04ec14ca0fd		
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)	**Completed** Using IP Address: 198.49.140.104	Sent: 8/25/2021 10:16:18 AM Viewed: 9/15/2021 8:06:02 AM Signed: 9/15/2021 8:06:37 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Sara Hensley sara.hensley@cityofdenton.com Interim City Manager City of Denton Security Level: Email, Account Authentication (None)	DocuSigned by: Sara Hensley 5236DB296270423... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/15/2021 8:06:39 AM Viewed: 9/15/2021 9:00:46 AM Signed: 9/15/2021 9:00:53 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)	DocuSigned by: Rosa Rios 1C5CA8C5E175493... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/15/2021 9:00:56 AM Viewed: 9/15/2021 1:36:36 PM Signed: 9/15/2021 1:38:13 PM
Electronic Record and Signature Disclosure: Accepted: 9/15/2021 1:36:36 PM ID: 509e3f99-9832-4143-b473-eef368a19185		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 8/20/2021 1:45:50 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 8/25/2021 10:16:18 AM Viewed: 8/25/2021 10:48:55 AM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 9/15/2021 1:38:16 PM Viewed: 9/15/2021 1:59:31 PM
Casey Bowles casey.bowles@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/13/2021 2:14:39 PM ID: ce34d80f-a06a-4093-9266-0103ed85ecb7	COPIED	Sent: 9/15/2021 1:38:17 PM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	8/13/2021 3:17:01 PM
Certified Delivered	Security Checked	9/15/2021 1:36:36 PM
Signing Complete	Security Checked	9/15/2021 1:38:13 PM
Completed	Security Checked	9/15/2021 1:38:17 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

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ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A CONTRACT BETWEEN THE CITY OF DENTON AND CINTAS CORPORATION NO. 2, AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON SEPTEMBER 14, 2021, IN THE NOT-TO-EXCEED AMOUNT OF $2,153,000.00; SAID FIRST AMENDMENT TO CONTINUE TO PROVIDE UNIFORMS AND ACCESSORIES RENTALS FOR ALL CITY OF DENTON DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 7738 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED $538,250.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $2,691,250.00).

WHEREAS, on September 14, 2021, City Council awarded a contract to Cintas Corporation No. 2 in the amount of $2,153,000.00, for uniform and accessories rental for all City of Denton Departments; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; and

WHEREAS, the additional fees under the proposed First Amendment are fair and reasonable and are consistent with, and not higher than, the recommended practices and fees applicable to the Provider's profession, and such fees do not exceed the maximum provided by law; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Cintas Corporation No. 2 , which is on file in the office of the Purchasing Agent, in the amount of Five Hundred Thirty-Eight Thousand Two Hundred Fifty and 0/100 ($538,250.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to $2,691,250.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush

Docusign Envelope ID: B03C5607-FB17-40F9-817D-96B2ADFF21E6

Docusign City Council Transmittal Coversheet

FILE	7738
File Name	Uniform and Accessories Rental
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

DS
LH

Docusign Envelope ID: B03C5607-FB17-40F9-817D-96B2ADFF21E6

THE STATE OF TEXAS §
§
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND CINTAS CORPORATION NO. 2

THIS FIRST AMENDMENT TO CONTRACT 7738 (this "Amendment") by and between the City of Denton, Texas ("City") and Cintas Corporation No. 2 ("Contractor") to that certain contract executed on September 14, 2021, in the original not-to-exceed amount of $2,153,000 (the "Agreement"); for services related to the **Supply of Uniform and Accessories Rental.**

WHEREAS, the City deems it necessary to further expand the services provided by Contractor to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount $**538,250** with this First Amendment for an aggregate not-to-exceed amount of $**2,691,250**; and

WHEREAS, this amendment incorporates any previously executed documents between the parties including but not limited to pricing adjustments.

WHEREAS, the City deems it necessary to further expand the goods/services provided by Contractor to the City; and

WHEREAS, the original not-to-exceed amount may not be increased by more than 25.0% as provided in Texas Local Government Code Sec. 252.048; and

NOW THEREFORE, the City and Contractor (hereafter collectively referred to as the "Parties"), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following First Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. This Amendment modifies the Agreement amount to provide an additional $538,250 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of $2,691,250.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Contractor, have each executed this Amendment, by and through their respective duly authorized representatives and officers on this date_____.

Docusign Envelope ID: B03C5607-FB17-40F9-817D-96B2ADFF21E6

"CONTRACTOR"
Cintas Corporation No. 2

Signed by:
By: Virginia Schabbing Major Account Manager
A2F2F2F2D1D54...
AUTHORIZED SIGNATURE, TITLE

"CITY"
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
By: Marcella Lunn
4B070831B4AA438...

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

By: _____

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational
obligations and business terms.

Signed by:
Stephen D Gay Stephen D Gay
1FEB4BAB9726E4A4...
SIGNATURE PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

Certificate Of Completion

Envelope Id: B03C5607-FB17-40F9-817D-96B2ADFF21E6
Status: Sent
Subject: Please DocuSign: City Council Contract 7738 Uniform and Accessories Rental
Source Envelope:
Document Pages: 3
Signatures: 3
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Gabby Leeper
901B Texas Street
Denton, TX 76209
Gabby.Leeper@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
10/22/2025 10:15:36 AM
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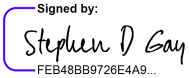
Signer Events	Signature	Timestamp
Gabby Leeper Gabby.Leeper@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 10/22/2025 10:17:02 AM Viewed: 10/22/2025 10:17:11 AM Signed: 10/22/2025 10:17:48 AM
Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DS LH Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/22/2025 10:17:50 AM Viewed: 10/22/2025 1:15:29 PM Signed: 10/22/2025 1:16:15 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	DocuSigned by: Marcella Lunn 4B070831B4AA438... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/22/2025 1:16:17 PM Viewed: 10/22/2025 1:17:01 PM Signed: 10/22/2025 1:17:35 PM
Virginia Schabbing schabbingv@cintas.com Major Account Manager Cintas Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/27/2025 10:01:01 AM ID: 10b5898a-37dd-46a7-b936-25dca577a3fe	Signed by: Virginia Schabbing 4A2A2F49A1C14DA... Signature Adoption: Pre-selected Style Using IP Address: 155.190.9.5	Sent: 10/22/2025 1:17:37 PM Resent: 10/27/2025 8:15:17 AM Viewed: 10/27/2025 10:01:01 AM Signed: 10/27/2025 10:02:39 AM

Signer Events	Signature	Timestamp
Stephen D Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 10/27/2025 10:36:51 AM ID: f2f056e6-eb33-4ad1-9f7c-7dbb5fb1eb4f	Signed by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 10/27/2025 10:02:40 AM Viewed: 10/27/2025 10:36:51 AM Signed: 10/27/2025 10:37:52 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 10/27/2025 10:37:56 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

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Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 10/22/2025 10:17:50 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 10/27/2025 10:37:55 AM Viewed: 10/28/2025 2:41:05 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Casey Bowles Casey.Bowles@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 10/15/2025 1:12:57 PM ID: 5bd9750f-bb78-4ee8-8504-2d9e32890392		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
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Payment Events	Status	Timestamps

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Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement

ACM: Christine Taylor

DATE: November 17, 2025

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with SwiftComply US OpCo Inc., for compliance tracking software for the Environmental Services and Sustainability, Denton Water Utilities, and Street Operations Departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 8850 – awarded to SwiftComply US OpCo Inc., in the five (5) year not-to-exceed amount of $92,028.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area(s): Support Healthy and Safe Communities, Promote Sustainability and the Environment, and Pursue Organizational Excellence and Collaborative and Respectful Leadership.

INFORMATION/BACKGROUND

In May 2025, a Request for Proposal (RFP) was issued to identify and select a comprehensive Compliance Tracking Software solution. This initiative was driven by the need to centralize and streamline the management, tracking, and monitoring of regulated entities within the City of Denton. The objective is to ensure effective, efficient, and compliant processes related to the regulation of these entities.

The proposed software will enable the City of Denton to achieve the following key goals:

- Centralize User Database: By consolidating user information within one Compliance Tracking Software, City staff will be able to collaborate interdepartmentally to identify regulated users and streamline regulatory efforts.

- Improved Efficiency: Automated templating will ensure that control documents are issued quickly and reduce the risk of input errors.

- Enhanced Reporting: The software will be able to streamline reporting processes, reducing administrative burdens and allowing staff to focus on other strategic initiatives and regulatory requirements.

After evaluating submissions, SwiftComply US OpCo Inc. was selected as the most qualified provider based on its ability to meet these objectives and competitive pricing. Their proposal demonstrated superior

functionality, efficacy, and aligned most with the City's operational goals. The selection process ensures the City receives the highest value for this investment.

Swift Comply Compliance Tracking Software Contract Estimate							
Description	**Unit**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Total**
Implementation	One Time	$13,000	-	-	-	-	$13,000
Subscription Fees	Annually	9,144	14,425	15,146	15,904	16,699	71,318
10% Contingency							7,710
Total		**$22,144**	**$14,425**	**15,146**	**15,904**	**16,699**	**$92,028**

Request for Proposals was sent to 361 prospective suppliers of this item, including four (4) Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download, and were advertised in the local newspaper. Five (5) proposals were received and evaluated based upon published criteria, including experience, functionality, technical training and support, and price. Based upon this evaluation, SwiftComply US OpCo Inc. was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	208 - Computer Software for Microcomputers (Preprogrammed)
Notifications sent for Solicitation sent in IonWave:	361
Number of Suppliers that viewed Solicitation in IonWave:	43
HUB-Historically Underutilized Business Invitations sent out:	76
SBE-Small Business Enterprise Invitations sent out:	208
Responses from Solicitation:	5

RECOMMENDATION

Award a contract with SwiftComply US OpCo Inc., for compliance tracking software for the Environmental Services and Sustainability, Denton Water Utilities, and Street Operations Departments, in a five (5) year not-to-exceed amount of $92,028.

PRINCIPLE PLACE OF BUSINESS

SwiftComply US OpCo Inc.
Pleasanton, CA

ESTIMATED SCHEDULE OF PROJECT

This is a five (5) year contract.

FISCAL INFORMATION

These services will be funded from account(s):

Environmental Services & Sustainability – Industrial Pretreatment	890300.7804	$87,694.67
Denton Water Utilities & Street Operations – Backflow Prevention	630200.7879	$4,333.33

Requisitions will be entered on an as-needed basis. The budgeted amount for this item is $92,028.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Pricing Evaluation
Exhibit 3: Ordinance and Contract

Respectfully submitted:
Lori Hewell, 940-349-7100
Purchasing Manager

For information concerning this acquisition, contact: Jordan Wilson, 940-349-8619.

Legal point of contact: Marcella Lunn at 940-349-8333.

Exhibit 2
RFP 8850 - Pricing Evaluation for Compliance Tracking Software

				Respondent's Business Name:	SwiftComply US OpCo Inc.	BMP Compliance Group	NJBSoft	Klir Inc.	3Di, Inc.
				Principal Place of Business (City and State):	Pleasanton, CA	Columbus, OH	Pheonix, AZ	Reno, NV	Brea, CA
Line #	**Description**	**QTY**	**UOM**		**Extended**	**Extended**	**Extended**	**Extended**	**Extended**
1	**Onboarding**								
2	Data Migration				**$4,528.00**	$0.00	$0.00	$28,000.00	$6,000.00
3	Upfront Product Licensing Fee				**$0.00**	$0.00	$61,000.00	$0.00	$36,000.00
4	Software Customization and Set-up				**$4,966.00**	$0.00	$51,000.00	$0.00	$32,080.00
5	Software Integration				**$3,506.00**	$0.00	$9,000.00	$0.00	$3,000.00
6	CROMERR Set-Up (EPA Application Assistance)				**$0.00**	$0.00	$0.00	$2,000.00	$6,000.00
7	**General System Support**								
8	System Support per Individual User*Estimated Up to 10 users*	1	User		**$0.00**	$0.00	$0.00	$0.00	$0.00
9	Concurrent Software - Per User*Estimated up to 10 users*	1	User		**$0.00**	$0.00	$0.00	$0.00	$0.00
10	Training Material				**$0.00**	$0.00	$0.00	$0.00	$2,000.00
11	Program Modification, Per Hour	1	Hour		**$0.00**	$0.00	$225.00	$0.00	$110.00
12	**Industrial Pretreatment Module**								
13	Ongoing Product Support				**$0.00**	$0.00	$0.00	$0.00	$0.00
14	Ongoing Licensing Fee*Annual Licensing Fee*				**$0.00**	$0.00	$0.00	$0.00	$0.00
15	Ongoing Subscription Fee*Annual Subscription Fee*				**$4,156.00**	$10,000.00	$37,800.00	$8,400.00	$0.00
16	Permitted Industrial User*Estimated up to 16 Users*	1	User		**$0.00**	$0.00	$0.00	$0.00	$0.00
17	CROMERR Support Fee	1	Hourly		**$0.00**	$0.00	$0.00	$0.00	$0.00
18	Submitted Report	1	EA		**$0.00**	$0.00	$0.00	$4,873.20	$0.00
19	**Commercial Pretreatment Module**								
20	Ongoing Product Support				**$0.00**	$0.00	$0.00	$0.00	$0.00
21	Ongoing Licensing Fee*Annual Licensing Fee*				**$0.00**	$0.00	$0.00	$0.00	$0.00
22	Ongoing Subscription Fee*Annual Subscription Fee*				**$4,988.00**	$5,320.00	$0.00	$19,000.00	$0.00
23	Individual User*Estimated up to 10 Users*	1	User		**$0.00**	$0.00	$0.00	$0.00	$0.00
24	Submitted Report	1	EA		**$0.00**	$0.00	$0.00	$4,873.20	$0.00
25	Regulated Facilities*Current number of facilities 688*	1	EA		**$0.00**	$0.00	$0.00	$0.00	$0.00
26	**Backflow/Cross-Connection Prevention Module**								
27	Ongoing Product Support				**$0.00**	$0.00	$0.00	$0.00	$0.00
28	Ongoing Licensing Fee*Annual Licensing Fee*				**$0.00**	$0.00	$0.00	$0.00	$0.00
29	Ongoing Subscription Fee*Annual Subscription Fee*				**$0.00**	$6,000.00	$26,250.00	$15,732.00	$0.00
30	Individual User*Estimated up to 10 users*	1	User		**$0.00**	$0.00	$0.00	$0.00	$0.00
31	Submitted Report	1	EA		**$0.00**	$0.00	$0.00	$4,873.20	$0.00
32	Regulated Facility*Estimated number of Facilities 688*	1	EA		**$0.00**	$0.00	$0.00	$0.00	$0.00
				Total:	**$22,144.00**	$21,320.00	$185,275.00	$87,751.60	$85,190.00

Evaluation						
Item #	**Standard Criteria**	**SwiftComply US OpCo Inc.**	BMP Compliance Group	NJBSoft	Klir Inc.	3Di, Inc.
1	Experience with Municipal Government Compliance Tracking Software - 20%	**19.00**	16.00	19.00	14.00	11.00
2	Functional Capabilities - 40%	**38.00**	20.00	26.00	22.00	20.00
3	Technical Support and Training - 20%	**19.00**	15.00	15.00	16.00	14.00
4	Price, Total Cost of Ownership - 20%	**19.26**	20.00	2.30	4.86	5.01
	Total Score:	**95.26**	71.00	62.30	56.86	50.01

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SWIFTCOMPLY US OPCO INC., FOR COMPLIANCE TRACKING SOFTWARE FOR THE ENVIRONMENTAL SERVICES AND SUSTAINABILITY, DENTON WATER UTILITIES, AND STREET OPERATIONS DEPARTMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8850 – AWARDED TO SWIFTCOMPLY US OPCO INC., IN THE FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF $92,028.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for compliance tracking software for the Environmental Services and Sustainability, Denton Water Utilities, and Street Operations Departments; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; and

WHEREAS, this procurement was undertaken as part of the City's governmental function [Water and sewer service]; and

WHEREAS, the City Council has provided in the City Budget for the appropriation of funds to be used for the purchase of the materials, equipment, supplies, or services approved and accepted herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The items in the following numbered request for proposal for materials, equipment, supplies, or services shown in the "Request Proposals" on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

RFP NUMBER	CONTRACTOR	AMOUNT
8850	SwiftComply US OpCo Inc.	$92,028.00

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations, Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal and related documents herein approved and accepted.

SECTION 4. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 5. By the acceptance and approval of the above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. This ordinance was passed and approved by the following vote [___ - ___]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Leah Bush
Marcella Lunn

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Docusign City Council Transmittal Coversheet

RFP	8850
File Name	Compliance Tracking Software
Purchasing Contact	Christina Dormady
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

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CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND SWIFTCOMPLY US OPCO INC.
(Contract #8850)

THIS CONTRACT is made and entered into this date _____, by and between SwiftComply US OpCo Inc. a Delaware corporation, whose address 6701 Koll Center Parkway, Suite 250, Pleasanton, CA 94566, hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Contractor shall provide services in accordance with the City's RFP# 8850 - Compliance Tracking Software , a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

(a) Special Terms and Conditions **(Exhibit "A");**
(b) City of Denton's RFP 8850 (the "Solicitation") **(Exhibit "B" on file at the office of the Purchasing Agent**);
(c) City of Denton Standard Terms and Conditions **(Exhibit "C");**
(d) Certificate of Interested Parties Electronic Filing **(Exhibit "D");**
(e) Insurance Requirements **(Exhibit "E");**
(f) Contractor's Proposal ("Contractor's Offer") **(Exhibit "F")**;
(g) Form CIQ – Conflict of Interest Questionnaire **(Exhibit "G")**
(h) SwiftComply Master Services Agreement **(Exhibit "H")**
(i) SwiftComply Service Order Form **(Exhibit "I")**

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel
Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this Contract, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Contract.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the Contract.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms "discriminate against a firearm entity or firearm trade association," "firearm entity" and "firearm trade association" shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this Contract, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of this Contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition On Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Section 2252 of the Texas Government Code restricts City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this Contract, Contractor certifies that Contractor's signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this Contract and will not become ineligible to receive payments under this Contract by doing business with Iran, Sudan, or a foreign terrorist organization***. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2275, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this Contract in the year and day first above written.

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CONTRACTOR

Signed by:
BY: Stefan Baerg
4969BDG4BFD749E...
AUTHORIZED SIGNATURE

Printed Name: __Stefan Baerg_____

Title: _Chief Revenue Officer_____

___647-298-4605_____
PHONE NUMBER

__stefan.baerg@swiftcomply.com_____
EMAIL ADDRESS

N/A
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

THIS AGREEMENT HAS BEEN BOTH REVIEWED AND APPROVED as to financial and operational obligations and business terms.

Signed by:
Michael Gange
BE1C32DE5A9764...
SIGNATURE

Michael Gange
PRINTED NAME

Director of Environmental Services & Sustainability
TITLE

Environmental Services & Sustainability
DEPARTMENT

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
BY: Marcella Lunn
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Exhibit A
Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed $92,028. Pricing shall be per Exhibit F attached.

2. The Quantities

The quantities indicated on Exhibit F are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms

The contract term will be five (5) years, effective from date of award or notice to proceed as determined by the City of Denton Purchasing Department. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of one (1) year.

4. Price Escalation and De-escalation

On Supplier's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. Any request for price adjustment must be based on the, U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) or the manufacturer published pricing list. The maximum escalation will not exceed +/- 8% for any individual year. The escalation will be determined annually at the renewal date. The price will be increased or decreased based upon the annual percentage change in the PPI or the percentage change in the manufacturer's price list. Should the PPI or manufacturer price list change exceed a minimum threshold value of +/-1%, then the stated eligible bid prices shall be adjusted in accordance with the percent change not to exceed the 8% limit per year. The supplier should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

Request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to contract expiration of each year. Respondent must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued.

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Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

Notwithstanding the preceding, the Parties have agreed to price escalation terms as outlined in Exhibit F.

5. Reserved

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Exhibit B
City of Denton's RFP 8850 File

On File at the Office of the Purchasing Agent

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Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Contractor . No Terms and Conditions contained in the seller's proposal response, invoice, or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the Contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, and 21 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, and 22 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable federal, State, and local laws, rules, and regulations.

2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation or Exhibit A, this Contract shall be effective as of the date this Contract is signed by the City and shall continue in effect until all obligations are performed in accordance with the Contract.

3. **Reserved**.

4. **Reserved**.

5. **Reserved**.

6. **Reserved**.

7. **Reserved**.

8. **Reserved**.

9. **Reserved**.

10. **Reserved.**

11. **Reserved**.

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12. **INVOICES**:

A. Reserved.

B. **Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department**. Invoices shall be itemized. 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. Reserved.

D. Reserved.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

13. **PAYMENT**:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

B. **If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, including, but not limited to, those in Paragraph D , below, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

C. Reserved.

D. The City may withhold or set off the entire payment or part of any payment otherwise due to the Contractor to such extent as may be necessary on account of:

i. delivery of defective or non-conforming deliverables by the Contractor;

ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;

iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;

v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or

vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

F. Payment will be made by electronic transfer of funds. The Contractor agrees that there shall be

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no additional charges, surcharges, or penalties to the City for payments made electronic funds transfer.

G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

14. **TRAVEL EXPENSES**: All travel, lodging, and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the Contract Documents. During the term of this Contract, the Contractor shall bill and the City shall reimburse Contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the Contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. **FINAL PAYMENT AND CLOSE-OUT**:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the fifteenth (15^{th}) calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. **Reserved**.

17. **RIGHT TO AUDIT**:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case

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records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

C. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents", and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. **SUBCONTRACTORS**:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract Documents, and shall contain provisions that:

i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient

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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 thirty (30) calendar days after receipt of payment from the City.

19. **WARRANTY-PRICE**:

A. Reserved.

B. The Contractor certifies that the prices in the Contractor's Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may cancel this Contract without liability to Contractor for breach.

20. **WARRANTY – TITLE**: **The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests, and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.**

21. **WARRANTY – DELIVERABLES**: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards.

A. Reserved.

B. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not

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impair the City's rights under this section.
D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources.
E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

22. **WARRANTY – SERVICES**: The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable federal, State, and local laws, rules or regulations.
A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.
B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES**: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses, and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE**: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as

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an anticipatory repudiation of the Contract.

25. **STOP WORK NOTICE**: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. **DEFAULT**:
A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
B. In the event the City terminates the awarded contract for default, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. **TERMINATION WITHOUT CAUSE**: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

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29. **FRAUD**: Fraudulent statements by the Contractor in any offer, Contract Document, or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. **DELAYS**:
A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **TIME OF COMPLETION AND LIQUIDATED DAMAGES**: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

32. **INDEMNITY**:
A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments, and liability of every character, type, or description, including all reasonable costs and expenses of litigation, mediation, or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and Subcontractors; the officers, agents, and employees of such Subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any

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person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's Subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

33. **LIMITATION OF LIABILITY**:

a. NEITHER CONTRACTOR NOR CITY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), OR INCIDENTAL DAMAGES, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, INDEMNITY OR CONTRIBUTION, OR OTHERWISE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE EXCLUSION CONTAINED IN THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE FAILURE OF THE EXCLUSIVE REMEDY PROVIDED IN THE FOLLOWING SENTENCE.

b. BOTH PARTIES' TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE CUMULATIVE FEES PAID BY CUSTOMER TO SWIFTCOMPLY IN THE PRECEDING TWENTY FOUR (24) MONTHS.

c. THE PROVISIONS OF SECTION 11.1(A) AND 11.1(B) SHALL NOT APPLY TO THE EXTENT THAT THE CAUSE OF ACTION GIVING RISE TO THE CLAIM ARISES FROM:

1. A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT; OR
2. CLAIMS FOR FEES OWED TO CONTRACTOR UNDER THIS AGREEMENT AND ANY COST, EXPENSE OR FEES INCURRED IN THEIR COLLECTION.
3. A PARTY'S FRAUD OR LIABILITY FOR DEATH OR PERSONAL INJURY ARISING FROM ITS NEGLIGENCE.

FOR THE PURPOSES OF THIS SECTION 12.1, "PARTY" INCLUDES EACH PARTY'S DIVISIONS, SUBSIDIARIES, AFFILIATES, SUCCESSORS, PARENT COMPANIES AND THEIR EXECUTIVES, DIRECTORS, OFFICERS, ATTORNEYS, MANAGERS, EMPLOYEES, CONSULTANTS, CONTRACTORS, AGENTS, AFFILIATES, RESELLERS, THIRD PARTY PROVIDERS, MERCHANTS, LICENSORS AND THE LIKE.

34. **INSURANCE**: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto,

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if applicable. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.
B. Specific Coverage Requirements: Specific insurance requirements are contained in the Solicitation and the Insurance Exhibit.

35. **CLAIMS**: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

36. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

37. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. **INDEMNIFICATION AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED**

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WITH THE CITY'S' OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

39. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

40. **OWNERSHIP AND USE OF DELIVERABLES**: Reserved

41. **Reserved**.

42. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

43. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

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44. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: The Contractor agrees to comply with the conflict of interest provisions of the City of Denton Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. **NO SUBCONTRACTING BID AFTER AWARD**: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. **NO GIFT OF PUBLIC PROPERTY**: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

48. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or their designee under this Contract. The Contractor is expressly free to advertise and perform services for other parties while performing services for the City.

49. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation

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by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.
The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

50. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

51. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document submitted to the City by Contractor shall have any force or effect to change the terms, covenants, and conditions of the Contract.

52. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. **DISPUTE RESOLUTION**:
A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute, however any decision requiring approval of the City Council of the City will be required to be submitted to the City Council and the senior level person shall have authority to

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recommend approval of any resolution. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

C. The parties shall not be required to submit to binding arbitration.

54. **JURISDICTION AND VENUE**: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

55. **INVALIDITY**: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

56. **HOLIDAYS:** The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veteran's Day

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Thanksgiving Day Friday After Thanksgiving Christmas Eve (observed) Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or their authorized designee.

57. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**
The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

59. **EQUAL OPPORTUNITY** Contractor agrees that during the performance of its contract it will:
A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.
B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.
C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined
in the ADA.

60. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)**
The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –
i. "Component" means an article, material, or supply incorporated directly into an end product.
ii. "Cost of components" means -

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(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
iii. "Domestic end product" means-
(1) An unmanufactured end product mined or produced in the United States; or
(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
v. "Foreign end product" means an end product other than a domestic end product.
vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.
D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

61. **RIGHT TO INFORMATION:** The City of Denton reserves the right to use any and all information presented in any response to this Contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

62. **LICENSE FEES OR TAXES:** Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

63. **PREVAILING WAGE RATES:** The Contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at http://www.dol.gov/whd/contracts/dbra.htm and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

64. **COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS:** The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall

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give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

65. **FEDERAL, STATE, AND LOCAL REQUIREMENTS:** Contractor shall demonstrate on-site compliance with the provisions of federal law dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Contractor shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

66. **ATTORNEY'S FEES; LEGAL COSTS:** Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

67. **DRUG FREE WORKPLACE:** The Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

68. **CONTRACTOR LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY:** The Contractor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Contractor shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

69. **FORCE MAJEURE:** The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

70. **NON-WAIVER OF RIGHTS:** Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under

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the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

71. **NO WAIVER OF SOVEREIGN IMMUNITY:** The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

72. **RECORDS RETENTION:** The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million ($1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contact; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. **PROCUREMENT LAWS**: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. **AUTHORITY**: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

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Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the Contract is awarded, in accordance with Government Code 2252.908.

The Contractor shall:

1. Log onto the State Ethics Commission Website at :https://www.ethics.state.tx.us/filinginfo/1295/
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

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Exhibit E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Contract, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.

- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:

    - Name as Additional Insured the City of Denton, its Officials, Agents,

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Employees and volunteers.

- That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.

- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***

- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.

- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Contract shall additionally comply with the following specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. <u>COMMERCIAL GENERAL LIABILITY INSURANCE</u>

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of

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$1,000,000.00 per occurrence and $2,000,000.00 general aggregate.

B. <u>CYBER/TECHNOLOGY NETWORK LIABILITY AND RISK INSURANCE</u>

Cyber/Technology Network Liability and Risk Insurance, inclusive of Information Security and Privacy (first and third party coverage) to provide coverage for any damage caused by a network risk, cyber act or breaches of data and privacy right, the rendering of, or the failure to properly perform professional services for, but not limited to, computer programming, management information systems, negligent system design, disclosure of confidential information, and copyright infringement with minimum limits with minimum limits of $1,000,000.00 per claim.

NOTE: Professional Liability Insurance and Cyber/Technology Network Liability and Network Risk Insurance may be combined on one policy with a $2,000,000.00 limit.

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Exhibit F

Line #	Description	QTY	UOM	SwiftComply, Inc. BAFO (8-1-25)
1	Onboarding			
2	Data Migration			$4,528.00
3	Upfront Product Licensing Fee			$0.00
4	Software Customization and Set-up			$4,966.00
5	Software Integration			$3,506.00
6	CROMERR Set-Up (EPA Application Assistance)			$0.00
7	General System Support			
8	System Support per Individual User*Estimated Up to 10 users*	1	User	$0.00
9	Concurrent Software - Per User*Estimated up to 10 users*	1	User	$0.00
10	Training Material			$0.00
11	Program Modification, Per Hour	1	Hour	$0.00
12	Industrial Pretreatment Module			
13	Ongoing Product Support			$0.00
14	Ongoing Licensing Fee*Annual Licensing Fee*			$0.00
15	Ongoing Subscription Fee*Annual Subscription Fee* Year 1 Industrial Pretreatment with first year discount of $4,594 ($8,750 is base yearly amount to apply future price increase)			$4,156.00
16	Permitted Industrial User*Estimated up to 16 Users*	1	User	$0.00
17	CROMERR Support Fee	1	Hourly	$0.00
18	Submitted Report	1	EA	$0.00
19	Commercial Pretreatment Module			
20	Ongoing Product Support			$0.00
21	Ongoing Licensing Fee*Annual Licensing Fee*			$0.00
22	Ongoing Subscription Fee*Annual Subscription Fee* FOG Subscription			$4,988.00
23	Individual User*Estimated up to 10 Users*	1	User	$0.00
24	Submitted Report	1	EA	$0.00
25	Regulated Facilities*Current number of facilities 688*	1	EA	$0.00
26	Backflow/Cross-Connection Prevention Module			
27	Ongoing Product Support			$0.00
28	Ongoing Licensing Fee*Annual Licensing Fee*			$0.00

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	Ongoing Subscription Fee*Annual Subscription Fee* Backflow - Mailing Subscription, Tester Funded			
29	No annual cost to City of Denton for backflow software. Testers charged $12.75 per passing test submitted. SwiftComply sends custom first and second test due notices on City's behalf via mail and/or email.			$0.00
30	Individual User*Estimated up to 10 users*	1	User	$0.00
31	Submitted Report	1	EA	$0.00
32	Regulated Facility*Estimated number of Facilites 688*	1	EA	$0.00

**A yearly increase of 5% on subscription fees

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Exhibit G

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.
By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 **Name of vendor who has a business relationship with local governmental entity.**

SwiftComply US OpCo Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information in this section is being disclosed.**

_____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relations hip with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☒ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes ☒ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 Signed by: Sefan Barg 4969BDC1BED740E...

Signature of vendor doing business with the governmental entity

9/24/2025
Date

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CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

(3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars ($50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars ($200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

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Exhibit H

SWIFTCOMPLY INC.
MASTER SERVICES AGREEMENT

THIS SWIFTCOMPLY SERVICE AGREEMENT (THE *"**AGREEMENT**"*) IS MADE AND ENTERED INTO BY AND BETWEEN SWIFTCOMPLY, INC. (*"**SWIFTCOMPLY**"*), A DELAWARE CORPORATION WITH ITS PRINCIPAL OFFICES AT 6701 KOLL CENTER PKWY SUITE 250, PLEASANTON, CA 94566 AND THE CUSTOMER IDENTIFIED BELOW (**"CUSTOMER"**). THE "TERMS AND CONDITIONS" ATTACHED TO THIS COVER PAGE (THE **"TERMS"**) SET FORTH THE GENERAL TERMS AND CONDITIONS GOVERNING USE OF THE SUBSCRIPTION SERVICE (COLLECTIVELY, WITH THIS COVER PAGE AND ANY SERVICE ORDER FORMS AND SOWS, THE **"AGREEMENT"**). THE AGREEMENT IS EFFECTIVE WHEN THIS COVER PAGE IS EXECUTED BY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES (THE **"EFFECTIVE DATE"**).

The Parties have caused their duly authorized representatives to execute the Agreement (incorporating the Terms) as of the dates set forth below.

Customer:_____	**SwiftComply, Inc.**
By (Signature):_____	**By (Signature):** Signed by: Sefan Baerg 4969BDC1BFD740E...
Name (Printed):_____	**Name (Printed):** Sefan Baerg
Title: _____	**Title:** CRO
Date: _____	**Date:** 9/24/2025

ACCEPTING THE TERMS

BY ACCEPTING THIS AGREEMENT, BY EXECUTING AN ORDER OR QUOTATION FORM THAT REFERENCES THIS AGREEMENT, THE CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE CUSTOMER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE CUSTOMER REPRESENTS THAT IT HAS THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF THE CUSTOMER DOES NOT HAVE SUCH AUTHORITY, OR THE CUSTOMER DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, THE CUSTOMER MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

TERMS AND CONDITIONS

1. Definitions

1.1. ***"Account"*** means an access point for the SwiftComply Service that requires registration by the Customer.

1.2. ***"Customer Data"*** means any data provided to SwiftComply by or on behalf of Customer or any data entered or uploaded into the SwiftComply Service by or on behalf of Customer, including Sensitive Data entered or provided by Customer. Customer Data specifically excludes SwiftComply Aggregated Data as well as any anonymized, customized, modified or derivative works related to the Customer Data.

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1.3. ***"Customer State"*** means the state, commonwealth or territory in which the Customer is located.

1.4. ***"Customer Web Site"*** means any website owned and operated by Customer.

1.5. "***Delinquent Account***" means an Account for which payment has not been received by SwiftComply within the payment period specified in the applicable Service Order or this Agreement.

1.6. ***"Documentation"*** means any accompanying proprietary documentation made available to Customer by SwiftComply for use with the SwiftComply Service, including any documentation available online or otherwise.

1.7. "***Downtime***" means any period during which the SwiftComply Service is not available to Customer, excluding (a) scheduled maintenance of which SwiftComply has given at least 24 hours' notice and (b) unavailability due to circumstances beyond SwiftComply's reasonable control.

1.8. ***"Sensitive Data"*** means any Customer Data that is considered sensitive or confidential under applicable law or internal Customer policies, including but not limited to Social Security numbers, personal financial information, protected health information under HIPAA, or any data classified as sensitive personal information under relevant data protection laws. **1.9.** ***"Software"*** means the object code and/or other executable code which are material elements of the SwiftComply Modules and SwiftComply Service.

1.10. "***Subscription Term***" means the duration for which the Customer has subscribed to the SwiftComply Service as specified in the applicable Service Order, including any renewals thereof.

1.11. "***Support***" means the technical and customer service assistance provided by SwiftComply in accordance with its standard support policies or as specified in the applicable Service Order.

1.12. ***"SwiftComply Aggregated Data"*** is defined in Section 13.2.

1.13. ***"SwiftComply API"*** means an application programming interface that provides access to specified content and functionality within certain SwiftComply Modules.

1.14. ***"SwiftComply Modules"*** means collectively all of the web applications hosted by SwiftComply and available via the SwiftComply Service, including but not limited to: "*SwiftComply Backflow", "SwiftComply Reclaimed Water", "SwiftComply Pretreatment*", "*SwiftComply FOG"*, "*SwiftComply Stormwater"*, "*SwiftComply Forms*", and "*SwiftComply Multi-Modules."*

1.15. ***"SwiftComply Service"*** means the complete set of SwiftComply software and related materials including but not limited to the SwiftComply Modules, SwiftComply Aggregated Data, SwiftComply Websites, the Documentation and the Software.

1.16. ***"SwiftComply Web Site"*** means the websites owned and operated by SwiftComply and made available at the following URL: http://customer.swiftcomply.com, https://customer.c3swift.com/, and/or any successor site(s).

1.17. "***User***" means an individual authorized by Customer to access and use the SwiftComply Service under Customer's Account, subject to the limitations set forth in this Agreement.

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2. Purchased Services

2.1. Provision of Purchased Services

*SwiftComply shall provide to the Customer the Swift Comply Service that is ordered by the Customer ("**Purchased Services**") on SwiftComply's invoice or quotation form (each a "**Service Order**") during a Subscription Term (as defined below), attached hereto as Appendix A.*

2.2. Subscription License

Unless otherwise stated in the applicable Service Order, the Purchased Services are purchased as a subscription license (the "**Subscription**") and non-transferrable to a third party.

3. SWIFTCOMPLY'S RESPONSIBILITIES

3.1. Provision of Service

So long as Customer has not breached this Agreement, SwiftComply will use commercially reasonable efforts to make the Purchased Service available to the Customer 24 hours per day, 7 days per week, except for planned downtime of which SwiftComply shall provide at least 24 hours notice via the Purchased Service and scheduled to the extent practicable during the weekend hours between 6 pm Friday and 3 am Monday Pacific Time. Any unavailability caused by circumstances beyond SwiftComply's reasonable control including but not limited to the malfunction of equipment, acts of God, act of government, flood, fire, earthquake, civil unrest, act of terror (collectively, "**Force Majeure**"), or the activities of third parties not under SwiftComply's control (including Internet and other service providers) is not the responsibility of SwiftComply. SwiftComply will make reasonable efforts to reduce to a minimum and mitigate the effect of any Force Majeure. SwiftComply has no liability whatsoever for any loss, damage, or inconvenience caused by Customer's inability to access or use the Purchased Services during any downtime or discontinuance of the Purchased Services. Nothing in this Agreement will be construed to obligate SwiftComply to maintain and support the Purchased Services.

SwiftComply reserves the right to enhance, update, and make changes (which changes could add or remove features or functionality) to the SwiftComply Services and to rollout such enhancements, updates, and changes to Customer at any time in connection with SwiftComply making such enhancements, updates, and changes commercially available to SwiftComply's other like customers. SwiftComply has made no promises or guarantees with respect to delivery of any future features or functionalities. Any discussions of any future features or functionalities, either prior to or following the agreement to this Agreement, are for informational purposes only, and SwiftComply has no obligation to provide any such features or functionalities.

3.2. Customer Data

Customer represents and warrants that it has obtained all data subjects' consent or otherwise has the full legal right necessary to provide the Customer Data to SwiftComply for SwiftComply's use as contemplated by this Agreement. Customer acknowledges that SwiftComply shall have no legal liability for its use and/or the display of the Customer Data as contemplated by this Agreement.

Customer Data shall remain the property of Customer, and Customer hereby grants SwiftComply a limited, perpetual, worldwide, irrevocable and royalty-free right to use, copy, modify, access, process, compile, and display the Customer Data within any SwiftComply Module(s) and for the purpose of providing the SwiftComply Service.

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3.3. Software Uptime Agreement

SwiftComply endeavours to provide 99.9% uptime with respect to the Purchased Services in each calendar month during the Term, excluding:

(a) any scheduled maintenance times;
(b) factors outside SwiftComply's reasonable control; and
(c) downtime related to the Customer's or third party's hardware, software or services.

*If in any calendar month this uptime commitment is not met by SwiftComply and the Customer was materially impacted from a resulting disruption to the Purchased Services as determined in SwiftComply's sole discretion acting reasonably, SwiftComply shall provide, as the sole and exclusive remedy, a service credit equal to 25% of one month's fee for the use of the Purchased Service (the "**Credit**").*

3.4. Service Level Agreement

There are several ways to get support for using SwiftComply, including online knowledge base, technical support, services support, and community support options.

The Customer Success team technical and consulting support is available during its regular business hours on weekdays that are not legal American holidays. Regular business hours are listed below:

>> 7:00 am EST until 8:00 pm EST

The following targets will be used for response to support requests during active business hours:

Severity	Initial Response	Resolution	Updates
Critical	1 hour	Work continuously	Every business day
High	2 hours	As soon as possible	Every other business day
Medium	4 hours	Reasonable effort	Weekly
Low	Following business day	Reasonable effort	As appropriate

Severity indicators are defined as follows:

>> Critical - SwiftComply Production Environment is down and no workaround is available.
>> High - Major functionality is impacted or significantly degraded;. No workaround is available.
>> Medium - Partial or non-critical loss of functionality; workaround available. >>
Low - General questions, documentation help, or feature requests.

Updates will continue until the issue is resolved or there is a workaround in place. SwiftComply aims to resolve all issues expeditiously, but when an issue is difficult to solve and takes longer than one business day, SwiftComply will provide updates on its progress according to the schedule listed above.

4. CUSTOMER'S USE OF THE SERVICE

4.1. Service Access

Subject to the terms and conditions of this Agreement and as specifically set forth in the applicable SwiftComply Service

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Order(s), SwiftComply grants Customer a limited, revocable, non-exclusive, non-transferable, non-distributable, worldwide license during the Subscription Term to utilize the Purchased Service for the following functionality:

- **Content Delivery**: Customer may integrate, link and publish applicable public-facing content from the applicable SwiftComply Modules within one or more Customer Web Site(s);
- **Application Access**: Customer may access the SwiftComply Modules via Customer's Account to utilize the functionality provided within such SwiftComply Modules; and
- **API Access**: Customer may access the SwiftComply API to share data from the SwiftComply Modules within one or more Customer(s) database(s).

4.2. Authorized Users

The Customer agrees to maintain authorized users purchased under the Subscription as stated in the Service Order. Only the Customer or persons or entities that have access to an Account through a username and password for the Account (each a "**User**" and collectively, the "**Users**") may use the Account.

4.3. Email and Notices

At the time of ordering the Purchased Service from SwiftComply, the Customer shall identify the administrator(s) responsible for the Accounts (each an "**Administrator**"). The Customer agrees to provide SwiftComply with the Administrator's contact information including e-mail address. By providing the Administrator's e-mail address, the Customer agrees to receive all required notices electronically to the Administrator's e-mail address.

The Administrator shall be responsible on behalf of the Customer for managing the Accounts, maintaining all User information, and the Purchased Services used by the Customer. It is the Customer's sole responsibility to notify SwiftComply if the Customer changes or intends to change its Administrator(s).

4.4. Users: Passwords, Access, Data Usage, and Notifications

Customer shall protect its passwords and take full responsibility for Customer's own, as well as any third-party, use of the Customer Account(s). Customer is solely responsible for any and all activities that occur under such Customer's Account(s), except for any activities performed by SwiftComply as set forth herein. Customer agrees to notify SwiftComply immediately upon learning of any unauthorized use of Customer's Account(s) or any other breach of security. From time to time, SwiftComply's support staff may log in to the Customer's Account(s) in order to maintain or improve the Purchased Service, including providing Customer assistance with technical or billing issues. Customer hereby acknowledges and consents to such access.

Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Purchased Service and shall promptly notify SwiftComply of such unauthorized access or loss/theft of any of its Users' login information.

Customer represents and warrants that Customer shall not provide or enter Sensitive Data to be displayed in any publicly available element of the SwiftComply Service. To the extent that Customer enters or uploads any Sensitive Data into the SwiftComply Service, Customer shall assume full responsibility for the disclosure of such Sensitive Data. SwiftComply is under no obligation to review and/or verify whether or not Customer Data includes Sensitive Data.

The Customer will be responsible for all electronic communications generated through the Purchased Service, including, but not limited to, Account registration and notices. The Customer is only entitled to access and use the Purchased Service and the Account for lawful purposes. Customer represents and warrants that (i) Customer will not use the Purchased Services for any illegal or unauthorized purpose and (ii) Customer's use of the Purchased Services will not violate any applicable law or regulation.

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SWIFT COMPLY

4.5. Restrictions

The Customer is responsible and liable for all activities conducted under its' Users' Accounts and ensuring their Users' compliance with this Agreement.

The Customer shall not:

(a) permit concurrent use of a single User Account, or time-sharing of the Purchased Service;

(b) post or transmit any Customer Data that contains viruses, worms, time bombs, Trojan horses or any othercontaminating, corrupting or destructive features, or use the Purchased Service in an irresponsible manner that interferes with the proper working and normal operation of the Purchased Service, or detrimentally interferes with personal information or property of another;

(c) use any information obtained from the SwiftComply Services in a manner that is illegal, harassing, hateful, harmful, defamatory, obscene, bullying, abusive, discriminatory, threatening to any person or group, sexually explicit, false, inaccurate, deceitful, or misleading;

(d) make improper use of SwiftComply's support services or submit false reports of abuse or misconduct;

(e) engage in any automated use of the SwiftComply Services, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools;

(f) harass, annoy, intimidate, or threaten any of SwiftComply's employees or agents engaged in providing any portion of the SwiftComply Services to Customer;

(g) copy, modify, create a derivative work of, reverse engineer, reverse assemble, disassemble, decompile or otherwiseattempt to extract the source code or modify the Purchased Service in any manner or form; or

(h) transfer, sell, lease, rent, sublicense, resell or assign, in any way, all or a portion of, the Account and/or thePurchased Service to any third party (other than Users in accordance with Section 5.2).

For clarity, the Customer receives no right or license to any source code to the SwiftComply Service hereunder. This Section shall survive any termination or expiration of this Agreement.

5. INTELLECTUAL PROPERTY

5.1. General

Both Parties may only use the other Party's intellectual property as expressly set forth herein. Nothing in this Agreement shall be construed in any manner to affect or modify either Party's ownership rights in any pre-existing or future works, trademarks, copyrights or technologies developed or created by either Party, including, without limitation, their respective proprietary software used in connection with the development and provision of their respective Websites, databases, systems, products and/or services. Unless specifically agreed by the Parties in writing, all intellectual property, including without limitation information that could become the subject of a patent, copyright or trade secret, developed by a Party in the context of performing its obligations under this Agreement shall be exclusively owned by that Party and the other Party shall cooperate with any reasonable requests to execute documents confirming such ownership.

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5.2. Proprietary Rights Notice

The SwiftComply Service and all intellectual property rights in the SwiftComply Service are, and shall remain, the property of SwiftComply. All rights in and to the SwiftComply Service not expressly granted to Customer in this Agreement are hereby expressly reserved and retained by SwiftComply without restriction, including, without limitation, SwiftComply's right to sole ownership of the SwiftComply API, SwiftComply Modules, SwiftComply Aggregated Data, SwiftComply Websites, Documentation and Software. Without limiting the generality of the foregoing, Customer agrees not to (and to not allow any third party to): (a) sublicense, copy, distribute, rent, lease, lend or use the SwiftComply Service outside of the scope of the license granted herein or make the SwiftComply Service available to any third party or use the SwiftComply Service on a service bureau time sharing basis; (b) copy, modify, adapt, alter, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the SwiftComply Service or otherwise attempt to discover or reconstruct any source code, underlying ideas, algorithms, file formats, program interfaces or other trade secrets related to the SwiftComply Service; (c) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the SwiftComply Service for any purpose without the express written consent of SwiftComply; (d) register, attempt to register, or assist anyone else to register any trademark, trade name, service marks, logos, domain names and other distinctive brand features, copyrights or other proprietary rights associated with SwiftComply other than in the name of SwiftComply; or (e) modify, remove, obscure, or alter any notice of copyright, trademark, or other proprietary right or legend appearing in or on any item included with the SwiftComply Service; (f) build a commercial product or service using similar ideas, features, functions, or graphics of the SwiftComply Services or that is otherwise competitive with the Purchased Services; or (g) do anything prohibited under Section 4.5. If the use of the SwiftComply Service is being purchased by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), in accordance with 48 C.F.R. 227.7202-4 (for Department of Defense (DOD) acquisitions) and 48 C.F.R. 2.101 and 12.212 (for non-DOD acquisitions), the Government's rights in the SwiftComply Service, including its rights to use, modify, reproduce, release, perform, display or disclose any elements of the SwiftComply Service, will be subject in all respects to the commercial license rights and restrictions provided in this Agreement.

This Section shall survive any termination or expiration of this Agreement.

5.3. Customer Feedback

*The Customer acknowledges that any ideas, suggestions, concepts, processes or techniques that it provides to SwiftComply related to the SwiftComply Services or SwiftComply's business (the "**Feedback**") shall become SwiftComply's property without any compensation or other consideration payable to the Customer by SwiftComply, and the Customer does so of its own free will and volition. SwiftComply may or may not, in its sole discretion, use or incorporate the Feedback, in whatever form or derivative that SwiftComply may decide, into the SwiftComply Service, documentation, business or other products. The Customer hereby assigns all rights on a worldwide, exclusive basis in perpetuity to SwiftComply in any Feedback and, as applicable, waives any moral rights to the Feedback.*

This Section shall survive any termination or expiration of this Agreement.

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6. PURCHASED SERVICES AND PAYMENT

6.1. Term of Agreement Reserved.

6.2. Term of Subscriptions and Renewal Reserved.

6.3. Service Fees Reserved.

6.4. Invoicing and Payment Reserved.

6.5. Applicable Taxes, Duties and Tariffs Reserved.

7. TERMINATION AND SUSPENSION

7.1. SwiftComply's Right to Suspend the Account

Without limiting any other remedies, SwiftComply reserves the right to immediately suspend the Customer's Account and access to and use of the Purchased Service under the following conditions:

- *The Account becomes a Delinquent Account; or*
- *SwiftComply reasonably concludes that the Account is being used to engage in denial service attacks, spamming, or illegal activity, and/or use of the Account is causing immediate, material and/or ongoing harm to SwiftComply and others.*

In the extraordinary event that SwiftComply suspends the Customer's access to the Purchased Service, SwiftComply will use commercially reasonable efforts to limit the suspension to the offending portion of the Purchased Service and resolve the issues causing the suspension of the Purchased Service. SwiftComply shall be under no obligation to compensate Customer for any losses or adverse results that are due to the suspension of Customer's or a User's access to the Purchased Services or its Accounts in accordance with this Section 8.1.

7.2. Reserved.

7.3. Reserved.

7.4. Handling of Customer Data Upon Termination

Effective upon cancellation of the Account, SwiftComply may deactivate the Account and be entitled to delete the Account and the Customer Data from the Purchased Service on the date the Subscription Term expires. The Customer further agrees that SwiftComply shall not be liable to the Customer nor to any third party for any termination of the Customer's access to the Purchased Service or deletion of the Customer Data, provided that SwiftComply is in compliance with the terms of this Section 7.4. *It is the responsibility of the Customer to obtain a full data export, screen captures and download all necessary reports and any other Customer data, should the Customer wish to keep the data*.

Customer shall cease use of the SwiftComply Service and shall remove all links from the Customer Web Site(s) to any content provided by the SwiftComply Modules.

Any outstanding fees shall become immediately due and payable, and termination of this Agreement shall not relieve Customer from its obligation to pay to SwiftComply any such fees.

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8. PRICE AND SERVICE CHANGES

8.1. Professional Services Fees

*SwiftComply shall provide the professional service as defined in the Scope of Work ("**SOW**"), Appendix B, in a professional manner, consistent with industry standards. Unless otherwise agreed upon by both Parties, or as the result of a delay on the part of SwiftComply, the obligation to provide professional services to the Customer expires the earlier of:*

1) completion of the professional services described in the SOW

2) 12 months from the effective date of the relevant Service Order

Additional professional services required as a result of add-on feature purchases or as a result of implementation delays outside SwiftComply's control will require a subsequent Change Order which will outline fees and services required.

8.2. Travel Costs

Unless noted otherwise, this quotation does not include any travel, lodging, or on-site expenses. If such travel is required and subsequently authorized, SwiftComply's standard travel and per diem rates shall apply. SwiftComply must receive pre-approval from Customer prior to incurring travel costs. Air travel, rental car (with associated fuel and parking costs), and lodging costs shall be reimbursed at cost. SwiftComply is not responsible for unpredictable (including commercial airline travel) delays which may increase travel cost.

9. Confidentiality

Subject to any applicable open public records laws in the Customer State, each Party will keep the specific terms of this Agreement confidential, including the contents of the schedules and exhibits, and not disclose any portion of them to any third party (other than to its attorneys, accountants, advisors and potential investors who are bound to keep such information confidential) without the other Party's prior written consent, except as required by law, including but not limited to open public record laws.

In addition, in connection with the negotiation and performance of this Agreement, a Party (the "**Receiving Party**") may receive information from the other Party (the "**Disclosing Party**") which is confidential or proprietary in nature, including without limitation information about a Party's products, systems and services ("**Confidential Information**"). The Receiving Party agrees that, during the term of this Agreement and for a period of three (3) years thereafter, it will keep the Confidential Information in strictest confidence and protect such Confidential Information by similar security measures as it takes to protect its own Confidential Information of a similar nature, but in no event shall the Receiving Party take less than reasonable care with the Confidential Information of the Disclosing Party. The Receiving Party also agrees that it will not use any Confidential Information for any purpose other than in connection with the performance of its obligations under this Agreement. The term "**Confidential Information**" shall not include information which A) is or becomes generally available to the public without breach of this Agreement, B) is in the possession of the Receiving Party prior to its disclosure by the Disclosing Party, C) becomes available from a third party not in breach of any obligations of confidentiality, or D) is independently developed by the Receiving Party.

In the event the Receiving Party is required by law and/or a valid court order or subpoena to disclose any portion of Confidential Information of the Disclosing Party, such disclosure shall not be a breach of this Agreement provided that the Receiving Party gives the Disclosing Party prior written notice of such disclosure requirement, cooperates fully with the Disclosing Party in seeking to obtain confidential treatment for such disclosure and to minimize the extent of such disclosure, and discloses only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

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The Parties recognize that the disclosure or use of a Disclosing Party's Confidential Information by the Receiving Party in violation of the provisions of this Section 10 may cause irreparable injury to the Disclosing Party; therefore, in the event either Party breaches the provisions of this Section 10, the other Party, in addition to any other remedies it may have, shall be entitled to seek preliminary and permanent injunctive relief without the necessity of posting a bond. SwiftComply acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, *Texas Government Code* in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Any portions of such material claimed by SwiftComply 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*.

10. Warranties

10.1. SwiftComply Warranties

SwiftComply represents and warrants that: (i) the Purchased Service shall be provided in accordance with, and shall not violate applicable laws, rules or regulations; and (ii) by using the Purchased Service, Customer will not violate or in any way infringe upon the personal or proprietary rights of any third party, (iii) to SwiftComply's knowledge, the Purchased Service does not contain any virus, worm, Trojan horse, time bomb or similar contaminating or destructive feature; and (iv) SwiftComply holds all necessary rights to permit the use of the Purchased Service and all components thereof provided to Customer under this Agreement.

The Customer's sole and exclusive remedy for SwiftComply's breach of this warranty shall be that SwiftComply be required to use commercially reasonable efforts to modify the Purchased Service to achieve in all material respects the functionality as described in the Help Documentation and, if SwiftComply is unable to restore such functionality, the Customer shall be entitled to terminate this Agreement and receive a pro-rata refund of the subscription fees paid under this Agreement for the Subscription for the terminated portion of the Subscription Term.

10.2. Disclaimer of Warranty

SWIFTCOMPLY WARRANTS THAT THE PURCHASED SERVICE WILL BE DELIVERED IN A PROFESSIONAL AND WORKMANLIKE MANNER SUBSTANTIALLY IN ACCORDANCE WITH THE STATEMENT OF WORK SET FORTH IN THE APPLICABLE PURCHASED SERVICE ORDER AND THAT THE PURCHASED SERVICE WILL OPERATE IN ALL MATERIAL RESPECTS AS DESCRIBED IN ITS PRODUCT DESCRIPTIONS AND/OR DOCUMENTATION. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT, INCLUDING ANY APPLICABLE SWIFTCOMPLY SERVICE ORDER, SWIFTCOMPLY MAKES NO ADDITIONAL WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, AVAILABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, GUARANTEES, REPRESENTATIONS, PROMISES, STATEMENTS, ESTIMATES, CONDITIONS, OR OTHER INDUCEMENTS.

FOR THE PURPOSES OF THIS SECTION 11.2, "SWIFTCOMPLY" INCLUDES SWIFTCOMPLY'S DIVISIONS, SUBSIDIARIES, AFFILIATES, SUCCESSORS, PARENT COMPANIES AND THEIR (INCLUDING SWIFTCOMPLY'S) EXECUTIVES, DIRECTORS, OFFICERS, ATTORNEYS, MANAGERS, EMPLOYEES, CONSULTANTS, CONTRACTORS, AGENTS, AFFILIATES, RESELLERS, THIRD PARTY PROVIDERS, MERCHANTS, LICENSORS AND THE LIKE.

This Section shall survive any termination or expiration of this Agreement.

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11.Reserved.

12.Reserved.

13.Reserved.

13.2 Reserved.

14 GENERAL

14.1 Interpretation of this Agreement

The term "including," wherever used in any provision of this Agreement, means "including but without limiting the generality of any description preceding or succeeding such term." Any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applicable in the construction or interpretation of this Agreement.

The division of this Agreement into sections/paragraphs, and the insertion of headings/captions, are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement or be deemed a part of this Agreement.

14.2 Anonymized Data Usage

SwiftComply may collect, analyze, and aggregate data derived from the use of the SwiftComply Service across its customer base, provided that such data is de-identified and does not contain any information that could reasonably be used to identify Customer or any individual ("**SwiftComply Aggregated Data**"). Both during and after the Term, SwiftComply may use such SwiftComply Aggregated Data for any lawful purpose, including to improve the SwiftComply Service, develop new features or offerings, train internal data models, and for industry research and benchmarking purposes. SwiftComply Aggregated Data may be processed or stored outside of SwiftComply's production environment, provided that appropriate technical and organizational measures are implemented to maintain data confidentiality and integrity.

14.3 Marketing

Customer agrees that SwiftComply may utilize Customer's name solely to identify it as a SwiftComply Customer on the SwiftComply Web site, in client lists and other marketing materials. Any other uses of Customer's name and/or logo (other than as included in the content and/or other items furnished to SwiftComply by Customer) shall require Customer's prior written consent.

14.4 Inurement

The rights and liabilities of both the Customer and SwiftComply (collectively, the "**Parties**") under this Agreement shall bind and inure to the benefit of the Parties' respective successors, executors, and administrators, as the case may be.

14.5 Assignment

Neither Party will assign this Agreement in whole or in part to any third party without the prior written consent of the other Party; provided, however, either Party may assign this Agreement without such consent to any subsidiary or parent company of such Party or to any successor by way of any merger, consolidation or other corporate reorganization of such Party or sale of all or substantially all of the assets of such Party or to an entity that assumes, by sale, license or otherwise, the business activities that are the subject of this Agreement, provided that such subsidiary or parent company or successor assumes or is

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otherwise fully bound by all of the obligations of the assigning Party under this Agreement. SwiftComply shall provide prompt written notice of assignment to Customer.

14.6 Governing Law

This Agreement shall be governed by the applicable laws in the Customer State, without regard to conflict of laws rules.

The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply to this Agreement. The Software is controlled by U.S. Export Regulations, and it may not be exported to or used by embargoed countries or individuals.

14.7 Reserved.

14.8 Severability

If any provision or portion of this Agreement is found by a court of competent jurisdiction to be unenforceable, invalid, or void for any reason, the remainder of this Agreement shall continue in full force and effect.

14.9 Independent Contractors

Nothing in this Agreement shall be construed as creating a partnership or relationship of employer and employee, principal and agent, partnership or joint venture between the Parties. Each Party will be deemed an independent contractor at all times and shall have no right or authority to assume or create any obligation on behalf of the other Party, except as may be expressly provided herein.

The Customer must not, in any way, misrepresent the Customer's relationship with SwiftComply, attempt to pass itself off as SwiftComply, or claim that the Customer is SwiftComply.

14.10 Injunction

Customer and SwiftComply acknowledge and agree that money damages are not an adequate remedy for any breach or threatened breach related to SwiftComply's rights or the Customer's use of the Purchased Service beyond the rights granted to Customer in this Agreement and may not be a sufficient remedy in the event of breach by SwiftComply of its obligations hereunder. The parties therefore agree that in addition to other remedies available hereunder, by law or otherwise, either party shall be entitled to an injunction against any such breach by the otherr.

14.11 Cooperative Statement

Other government or municipal organizations may elect to participate in this Agreement (piggyback) at their discretion, provided SwiftComply also agrees to do so.

14.12 Compliance with Laws

Each Party shall comply with all applicable laws in relation to its obligations or performance under this Agreement.
Customer specifically agrees to comply with all export control, embargo, and sanctions laws and regulations of the United States and any other applicable jurisdiction (the "**Export Control Laws**"). Customer will not violate, and will not cause SwiftComply to violate, any Export Control Laws. Licenses or other authorizations required for the transfer of goods or services will be the responsibility of Customer unless otherwise indicated in this Agreement, in which event Customer shall provide all information as may be requested by SwiftComply to enable SwiftComply to obtain such licenses or authorizations. Each Party specifically agrees to comply with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act. Neither

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Party nor any of its subcontractors will, directly or indirectly, provide, or offer to provide anything of value to or for the benefit of any official or employee of a governmental authority to obtain or retain any contract, business opportunity, or other benefit, or to influence any act or decision of that person in her/his official capacity.

14.13 Notices

All notices, requests, or other communications between the Parties that are required or permitted hereunder will be in writing and will be given by: (a) delivery in person or by prepaid courier service with a nationally recognized courier company, (b) delivery by registered or certified mail, postage prepaid, return receipt requested, (c) by confirmed fax, or (d) email to the address and/or fax number set forth in the applicable SwiftComply Service Order. A Party may change the street or email address or fax number to which notice is to be sent by giving written notice of such change. Notices will be deemed given when received as evidenced by verification from the courier company, the mail or confirmation of email receipt or fax confirmation.

Notice to Company

Any and all notices to SwiftComply from the Customer must be given by in writing, e-mail, first class postal service (postage prepaid), or by pre-paid commercial courier delivered to SwiftComply at:

SwiftComply Inc.
6701 Koll Center Pkwy, Suite 250

Pleasanton CA, 94566 email:

accounts@swiftcomply.com

15 Reserved.

Docusign Envelope ID: FBA9689C-74E6-4D9B-A407-C3F99E166A7C

Exhibit I

Service Order

6701 Koll Center Pkwy Suite 250, Pleasanton, CA 94566

619.304.6022 - www.swiftcomply.com

Rep Name	Reilly Kirk	Service Order #	RK055
Email	reilly.kirk@swiftcomply.com	Create Date	8/22/25
Phone Number	503-522-3544	Valid Until	10/21/25

Customer Information

Customer	City of Denton	Contact	Jordan Wilson	Billing Contact	Accounts Payable
Street Address	215 East McKinney Street	Title	Pretreatment Program Manager	Email	Accountspayable@cityofdenton.com
City, St, Zip	Denton, TX 76205	Email	Jordan.wilson@cityofdenton.com	Phone	940-349-8619
Phone	940-349-8200	Phone	940-349-8619	PO # (If any)	

Services provided by SwiftComply:

One -Time Professional Services

SKU	Description	Unit Price	Quantity	Total Price
C-3-501	SwiftComply Professional Services - Implementation	$13,000	1	$13,000
Total One-Time Service Fees				**$13,000**

Recurring Subscription Fees

SKU	Description	Unit Price	Quantity	Total Price
C-1-303	Backflow - Mailing Subscription, Tester funded	$0	1	$0
C-1-302	FOG Subscription	$4,988	1	$4,988
C-1-201	Industrial Pretreatment - Subscription	$8,750	1	$8,750
C-1-201	Industrial Pretreatment First Year Discount	-$4,594	1	-$4,594
Total Subscription Fees				**$9,144**

Billing Details & Terms

Invoicing Schedule

	Billing Date	Amount(s)	Notes
Invoice 1	Contract Effective Date	$22,144	Including Professional Services and Year 1 SaaS
Invoice 2	Renewal Date	$14,425	Year 2 SaaS
Invoice 3	Renewal Date	$15,146	Year 3 SaaS
Invoice 4 Invoice 5	Renewal Date	$15,903	Year 4 SaaS
	Renewal Date	$16,699	Year 5 SaaS

Billing Terms & Conditions

Annual Increase	Annual year-over-year cost increase of 5% to City paid SaaS fees
Annual Fee	$14.75/Event fee to be paid by Testers
Acceptance and Remittance	Customer commits to requiring backflow testers to submit backflow test reports via SwiftComply portal. SwiftComply will remit to the City on a quarterly basis (at a minimum amount of $10,000 otherwise rolled to the next quarter) any funds received in excess of the $14.75/test.
Initial Term	5 Year Contract
Payment Terms	Due 100% on Contract Effective Date (Net 30)
Payment Method	Any discounts stated above are contingent on payment being received by ACH

Signatures	Customer	SwiftComply

Docusign Envelope ID: FBA9689C-74E6-4D9B-A407-C3F99E166A7C

Signature		Signature	Reilly Kirk
Name		Name	Reilly Kirk
Title		Title	Senior Account Executive
Date		Date	8/22/25

General Terms & Conditions

Taxes

The Service Fees and Billing amounts set forth above in this SwiftComply Service Order DO NOT include applicable taxes.

Agreement

This SwiftComply Service Order shall become binding upon execution by both Parties. The signature herein affirms your commitment to pay for the Service(s) ordered in accordance with the negotiated terms set forth in this SwiftComply Service Order.

Certificate Of Completion

Envelope Id: FBA9689C-74E6-4D9B-A407-C3F99E166A7C
Status: Sent
Subject: Please DocuSign: City Council Contract 8850 Compliance Tacking Software
Source Envelope:
Document Pages: 48
Signatures: 5
Certificate Pages: 6
Initials: 1
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
Christina Dormady
901B Texas Street
Denton, TX 76209
christina.dormady@cityofdenton.com
IP Address: 198.49.140.10

Record Tracking

Status: Original
9/24/2025 1:13:47 PM
Holder: Christina Dormady
christina.dormady@cityofdenton.com
Location: DocuSign

Signer Events	Signature	Timestamp
Christina Dormady christina.dormady@cityofdenton.com Buyer City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 198.49.140.10	Sent: 9/24/2025 1:23:47 PM Viewed: 9/24/2025 1:24:01 PM Signed: 9/24/2025 1:25:43 PM
Christa Christian Christa.christian@cityofdenton.com Purchasing Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/24/2025 1:25:47 PM Viewed: 9/24/2025 1:51:26 PM Signed: 9/24/2025 1:54:50 PM
Marcella Lunn marcella.lunn@cityofdenton.com Senior Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/24/2025 1:54:53 PM Viewed: 9/24/2025 2:18:39 PM Signed: 9/24/2025 2:20:44 PM
Sefan Baerg stefan.baerg@swiftcomply.com CRO Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/24/2025 2:24:53 PM ID: e30e38fd-cd57-4b67-ab90-f34fc608a27a	 Signature Adoption: Pre-selected Style Using IP Address: 24.141.87.126	Sent: 9/24/2025 2:20:48 PM Viewed: 9/24/2025 2:24:53 PM Signed: 9/24/2025 2:26:39 PM

Signer Events	Signature	Timestamp
Michael Gange michael.gange@cityofdenton.com Director of Environmental Services & Sustainability Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/25/2025 8:38:50 AM ID: bed85b50-87ad-4549-be6d-50aff74416b2	Signed by: Michael Gange BBFD333DB5A946A... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 9/24/2025 2:26:44 PM Viewed: 9/25/2025 8:38:50 AM Signed: 9/25/2025 8:40:13 AM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 9/25/2025 8:40:18 AM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Ingrid Rex ingrid.rex@cityofdenton.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 9/24/2025 1:25:47 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	COPIED	Sent: 9/25/2025 8:40:18 AM Viewed: 9/25/2025 4:09:48 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via Docusign		
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via Docusign		
Jordan Wilson Jordan.wilson@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 8/28/2025 2:13:19 PM ID: e24c925a-6b33-4ce5-8487-ea558bf27fc0		
Stefan Baerg stefan.baerg@swiftcomply.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 9/24/2025 2:24:53 PM ID: e30e38fd-cd57-4b67-ab90-f34fc608a27a		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/24/2025 1:23:47 PM
Envelope Updated	Security Checked	9/25/2025 9:03:34 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	•Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.
By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
October 27, 2025

After determining that a quorum was present of the Public Utilities Board of the City of Denton, convened in a Regular Meeting on Monday, October 27, 2025, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback

Also present: General Manager Stephen Gay and First Assistant City Attorney Marcella Lunn

Absent: Susan Parker, Aaron Newquist

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

There were no presentations from the public.

2. CONSENT AGENDA

The Consent Agenda consisted of Item 2 A.

Board Member Riback moved to recommend adoption of agenda items 2 A. Motion seconded by Board Member Taylor; motion carried.
YES (5): Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback
NO (0):

A. PUB25-200 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of Change Order No. 10 to the Design-Build Agreement between the City of Denton and Beta Engineering, LLC, for the design and construction of the Hickory Gas Insulated Substation for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7670 - Change Order No. 10 in the not-to-exceed amount of $1,008,314.26, for a total contract award aggregated to $44,446,058.31).

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB25-202 Consider approval of the October 13, 2025, minutes.

Board Member Plock moved to recommend adoption of agenda items 3 A. Motion seconded by Board Member Taylor; motion carried.
YES (5): Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback
NO (0):

B. PUB25-201 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a

contract with Exceleron Software, LLC., for a prepaid utilities solution for the Customer Service Department, which is the sole provider of this software, in accordance with Texas Local Government Code 252.022, which provides that procurement of commodities and services that are available from one source are exempt from competitive bidding, and if over $50,000, shall be awarded by the governing body; providing for the expenditure of funds therefor; and providing an effective date (File 8923 - awarded to Exceleron Software, LLC., through September 30, 2038, in the not-to-exceed amount of $15,460,605.23).

Christa Foster gave a presentation and answered questions from board members. Tony Puente also answered questions from board members.

Board Member Rayner moved to recommend adoption of agenda items 3 B. Motion seconded by Board Member Plock; motion carried.
YES (5): Chair Billy Cheek, Devin Taylor, Thomas Plock, Robert Rayner, Lee Riback
NO (0):

C. PUB25-187 Management Reports

1. Integrated Utility Payment Solutions Memo
2. FM 1515 Utilities Relocation Memo
3. Bond Rates Memo
4. Future Agenda Items
5. New Business Action Items

4. CONCLUDING ITEMS

With no further business, the meeting was adjourned at 9:28 AM.

BILLY CHEEK	**CASSIE BLACKBURN**
CHAIR	**ADMIN MANAGER**
CITY OF DENTON, TEXAS	**CITY OF DENTON, TEXAS**

Minutes approved on: 11/17/2025

City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: **Denton Municipal Electric**

DCM: **Cassandra Ogden**

DATE: **November 17, 2025**

SUBJECT

Consider recommending adoption of an Ordinance of the City of Denton, Texas authorizing the expenditure of funds for the payment of wholesale transmission charges in the total amount of $10,803,259.00; and providing an effective date.

BACKGROUND

The Texas Public Utility Regulatory Act requires that each Transmission Service Provider (TSP) file a tariff for transmission service with the Public Utility Commission of Texas (PUCT) in order to get such tariff approved. The tariff applies to all Distribution Service Providers (DSP). As a DSP under 16 TAC § 25.5(33), Denton Municipal Electric (DME) is obligated to compensate TSPs for their transmission cost of service based on DME's pro-rata share of the total ERCOT electric load. Other Distribution Service Providers are similarly obligated to compensate DME for their respective share of DME's transmission costs as a Transmission Service Provider.

Approval of this item will authorize the issuance of purchase orders to each of the following entities to reimburse them for DME's share of their transmission costs, as per the state law referenced in the above paragraph, less the amount that each entity owes DME for DME's transmission costs (i.e. these are net amounts). This is being brought forward to the Public Utility Board and City Council for transparency/accountability since these net payments exceed $50,000 each. In prior years, budgeted TCOS payments, have been made administratively since they are statutorily mandated payments and amounts. A number of smaller net TCOS bills (i.e. less than $50,000) are being concurrently paid under standard City payment authority.

American Electric Power	$ 1,913,727.79
City of Bryan	$ 82,836.78
Cross Texas Transmission	$ 427,971.57
Electric Transmission Texas, LLC.	$ 2,088,952.71
Garland Power & Light	$ 230,964.76
Lone Star Transmission	$ 589,805.58
Lower Colorado River Authority	$ 4,190,054.83
Sharyland Utilities	$ 244,580.72
Texas Municipal Power Agency	$ 189,032.24
Texas New Mexico Power	$ 141,631.75
Wind Energy Transmission Texas	$ 703,700.27
TOTAL	$10,803,259.00

It should be noted that the TCOS payment process overseen by the PUCT is iterative and that these initial billing amounts may be trued-up later by the PUCT. At that time, minor adjustments to the issued Purchase Order amounts could be necessary and will be handled administratively by the Finance Department.

These payments are mandated by the Texas Public Utility Regulatory Act and the Public Utility Commission of Texas.

RECOMMENDATION

Staff recommends approval of payment of PUCT approved transmission charges to each of the eleven transmission entities in the total amount $10,803,259.00.

FISCAL INFORMATION

Funds to meet these regulatory fee obligations were budgeted in 2025-2026 budget account 600100.6072.5650A.

EXHIBITS

1. Agenda Information Sheet
2. Ordinance
3. Presentation

Respectfully submitted:
Tony Puente
940-349-8487
DME General Manager

Prepared by:
Melissa Cuevas
940-349-7591
Division Manager of Business Services

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE PAYMENT OF WHOLESALE TRANSMISSION CHARGES IN THE TOTAL AMOUNT OF $10,803,259.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, all Distribution Service Providers ("DSP") in the Electric Reliability Council of Texas ("ERCOT") is required under the Texas Public Utility Regulatory Act ("PURA") to compensate Transmission Service Providers ("TSPs") for its wholesale transmission charges, commonly referred to as Transmission Cost of Service ("TCOS"), after the same have been filed with and approved by the Public Utility Commission of Texas ("PUCT");

WHEREAS, the City of Denton (the "City"), acting under the trade name of Denton Municipal Electric, is a DSP in ERCOT;

WHEREAS, the City is required to compensate the following TSPs for its TCOS as set forth below:

Name of TSP	Amount
American Electric Power	$ 1,913,727.79
City of Bryan	$ 82,836.78
Cross Texas Transmission	$ 427,971.57
Electric Transmission Texas, LLC.	$ 2,088,952.71
Garland Power & Light	$ 230,964.76
Lone Star Transmission	$ 589,805.58
Lower Colorado River Authority	$ 4,190,054.83
Sharyland Utilities	$ 244,580.72
Texas Municipal Power Agency	$ 189,032.24
Texas New Mexico Power	$ 141,631.75
Wind Energy Transmission Texas	$ 703,700.27
TOTAL	$10,803,259.00

WHEREAS, the amounts due to the above TSPs are trued up by the PUCT and may require additional compensation by the City to one or more of the above TSPs; and

WHEREAS; the City Manager, or designee, has reviewed the above TCOS submitted by the TSPs and recommended that the City Council approve and authorize the payment of the same; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION1. The facts, circumstances, and recitations contained in the preamble of this ordinance are found and declared to be true and correct.

SECTION 2. The total expenditure of funds in the amount of $10,803,259.00 for the City's obligation as a DSP in ERCOT to following TSPs for its TCOS is authorized and payable as set forth below:

Name of TSP	Amount
American Electric Power	$ 1,913,727.79
City of Bryan	$ 82,836.78
Cross Texas Transmission	$ 427,971.57
Electric Transmission Texas, LLC.	$ 2,088,952.71
Garland Power & Light	$ 230,964.76
Lone Star Transmission	$ 589,805.58
Lower Colorado River Authority	$ 4,190,054.83
Sharyland Utilities	$ 244,580.72
Texas Municipal Power Agency	$ 189,032.24
Texas New Mexico Power	$ 141,631.75
Wind Energy Transmission Texas	$ 703,700.27
TOTAL	$10,803,259.00

SECTION 3. That as the above payments are subject to being trued up by the PUCT the additional expenditure of funds, if required, is authorized. However, this additional expenditure is specifically limited to each TSP receiving additional payments not to exceed five percent (5%) or less of the payment set forth in Section 2 above. Payments in excess of this specific limitation will require further approval by City Council.

SECTION 4. That this ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____,

seconded by _____, and was passed and approved by the following vote [_____ - _____]:

	Aye	**Nay**	**Abstain**	**Absent**
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

_____
GERARD HUDSPETH, MAYOR

ATTEST:
INGRID REX, INTERIM CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn

TRANSMISSION CHARGES

Fiscal Year 2025-26

Melissa Cuevas
Division Manager of Business Services
PUB 25-208

DENTON MUNICIPAL ELECTRIC

FY 2025-26 TRANSMISSION COST OF SERVICE (TCOS) CHARGES

Transmission Service Providers	Total
American Electric Power	$1,913,727.79
City of Bryan	82,836.78
Cross Texas Transmission	427,971.57
Electric Transmission Texas, LLC.	2,088,952.71
Garland Power & Light	230,964.76
Lone Star Transmission	589,805.58
Lower Colorado River Authority	4,190,054.83
Sharyland Utilities	244,580.72
Texas Municipal Power Agency	189,032.24
Texas New Mexico Power	141,631.75
Wind Energy Transmission Texas	703,700.27
TOTAL	**$10,803,259.00**

This item will authorize the expenditure of Transmission charges totaling $10,803,259. The charges will reimburse other Transmission Service providers for DME's share of their transmission assets.

TCOS FY 2025-26 PAYMENT DETAIL

$0-50,000

Transmission Service Providers	TOTAL
Cherokee County Electric Cooperative Association	$1,255.41
Deep East Texas Electric Cooperative	908.12
East Texas Electric Cooperative	1,532.33
Fannin Electric Coop	951.52
Farmers Electric Cooperative, Inc.	4,297.91
Grayson-Collin Electric Cooperative, Inc.	9,865.95
Houston County Electric Cooperative	9,837.30
Lyntegar (GSEC handles)	4,933.41
Rio Grande Electric	4,279.68
San Miguel Electric Cooperative, Inc.	8,899.24
South Texas Electric Coop	6,580.60
Southwest Texas Electric	412.82
Trinity Valley Electric Cooperative	4,650.38
Wood County Electric Cooperative	824.33
TOTAL	**$59,229.00**

$50,001 and Over

Transmission Service Providers	TOTAL
American Electric Power	$1,913,727.79
City of Bryan	82,836.78
Cross Texas Transmission	427,971.57
Electric Transmission Texas,	2,088,952.71
Garland Power & Light	230,964.76
Lone Star Transmission	589,805.58
Lower Colorado River	4,190,054.83
Sharyland Utilities	244,580.72
Texas Municipal Power	189,032.24
Texas New Mexico Power	141,631.75
Wind Energy Transmission	703,700.27
TOTAL	**$10,803,259.00**

Staff approves charges below $50,000, however anything above $50,000 is approved by PUB and City Council

QUESTIONS?

Future Public Utilities Board Agenda Items

Note: This is a working draft of pending PUB items and is subject to change without notice.

Meeting Date	Item	Dept
December 15, 2025		
January 12, 2026	Receive nominations and hold elections for Chair, Vice Chair, and Secretary.	

Codes: Work Session WS, Consent Agenda CA, Individual Consideration IC

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPT	STATUS
1.					
2.					