

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH GENUINE PARTS COMPANY DBA NAPA INTEGRATED BUSINESS SOLUTIONS THROUGH THE SOURCEWELL COOPERATIVE PURCHASING NETWORK CONTRACT NO. 090624-GPC, FOR THE PURCHASE OF PRODUCTS AND SERVICES FOR THE ON-SITE PARTS FACILITY FOR THE FLEET SERVICES DEPARTMENT; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8806 – AWARDED TO GENUINE PARTS COMPANY DBA NAPA INTEGRATED BUSINESS SOLUTIONS, 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 \$35,112,000.00).

WHEREAS, pursuant to Ordinance 20-197, Sourcewell has solicited, received, and tabulated competitive bids for the purchase of necessary materials, equipment, supplies, or services in accordance with the procedures of state law on behalf of the City of Denton; and

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8806	Genuine Parts Company dba NAPA Integrated Business Solutions	\$35,112,000.00

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 Sourcewell for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, conditions, specifications, standards, quantities, and for the specified sums contained in the bid documents and related documents filed with Sourcewell and the purchase orders issued by the City.

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

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

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

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

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

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
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.

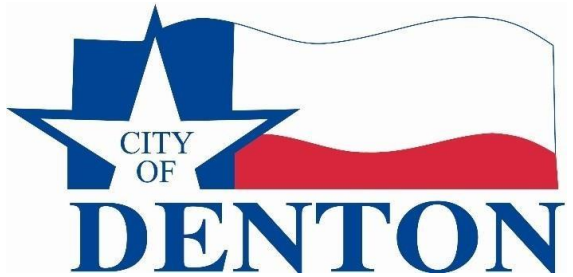
\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
LAUREN THODEN, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



Docusign City Council Transmittal Coversheet

COOP	8806
File Name	NAPA
Purchasing Contact	kayla clark
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN  
CITY OF DENTON, TEXAS AND GENUINE PARTS COMPANY dba NAPA INTEGRATED  
BUSINESS SOLUTIONS  
(File # 8806)**

**THIS CONTRACT** is made and entered into this date \_\_\_\_\_, by and between GENUINE PARTS COMPANY dba NAPA INTEGRATED BUSINESS SOLUTIONS a Georgia Corporation, whose address is 2999 CIRCLE 75 PARKWAY ATLANTA, GA 30339, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

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

**SCOPE OF SERVICES**

Supplier shall provide products in accordance with the Supplier's participating addendum, a copy of which is attached hereto and incorporated herein for all purposes as **Exhibit "B"**. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) PARTICIPATING ADDENDUM (**Exhibit "B"**);
- (c) Sourcewell Pricing for NAPA IBS Contract #090624-GPC(**Exhibit "C"**);
- (d) Sample Expense Statement (**Exhibit "D"**);
- (e) Sourcewell Contract #090624 with GENUINE PARTS COMPANY dba NAPA INTEGRATED BUSINESS SOLUTIONS, (**Exhibit "E"**);on file at the office of the **Purchasing Agent**
- (f) City of Denton Standard Terms and Conditions (**Exhibit "F"**);
- (g) Certificate of Interested Parties Electronic Filing (**Exhibit "G"**);
- (h) Insurance Requirements (**Exhibit "H"**);
- (i) Form CIQ – Conflict of Interest Questionnaire (**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 agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.* Failure to meet or maintain the requirements under this provision will be considered a material breach.

**Prohibition on Contracts with Companies Boycotting Certain Energy Companies**

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is

File 8806

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

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

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

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

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

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

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

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

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

**SUPPLIER**

Signed by:  
BY: Art Fischer  
CCA7C6D0DBDE41A  
AUTHORIZED SIGNATURE

Printed Name: Art Fischer

Title: Division Vice President

813-955-7554

PHONE NUMBER

art\_fischer@genpt.com

EMAIL ADDRESS

art\_fischer@genpt.com

TEXAS ETHICS COMMISSION  
1295 CERTIFICATE NUMBER

**CITY OF DENTON, TEXAS**

BY: \_\_\_\_\_  
SARA HENSLEY, CITY MANAGER

ATTEST:  
LAUREN THODEN, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

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

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

DocuSigned by:  
Thomas Gramer  
F704E88617504DC  
SIGNATURE PRINTED NAME

Director

TITLE

Fleet

DEPARTMENT

**Exhibit A**  
**Special Terms and Conditions**

**1. Contract Term**

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

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

**2. Total Contract Amount**

The contract total shall not exceed **\$35,112,000**. Pricing shall be per Exhibit C attached.

**3. The Quantities**

The quantities indicated on Exhibit C (in this contract) 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.



**Exhibit B**  
**PARTICIPATING ADDENDUM**

This **PARTICIPATING ADDENDUM** (this “Participating Addendum”) is entered into by **GENUINE PARTS COMPANY**, a Georgia corporation d/b/a NAPA (“Supplier”) and **City of Denton** (the “Participating Entity”) as of \_\_\_\_\_, 2025 (the “Effective Date”).

**WHEREAS, PURSUANT TO A COMPETITIVE SOLICITATION AND COOPERATIVE PROCUREMENT PROCESS OFFERED BY SOURCEWELL (HEREINAFTER, “SOURCEWELL”), A MINNESOTA SERVICE COOPERATIVE CREATED BY MINNESOTA STATUTES SECTION 123A.21, SOURCEWELL AND SUPPLIER EXECUTED CONTRACT #090624-GPC ON DECEMBER 26, 2024 (HEREINAFTER, “SOURCEWELL CONTRACT”) TO ESTABLISH A SOURCE OF SUPPLY FOR CERTAIN AUTO, TRUCK AND BUS PARTS AS WELL AS TO PROVIDE INTEGRATED BUSINESS SOLUTIONS SERVICES; AND**

**WHEREAS, PARTICIPATING ENTITY DESIRES TO UTILIZE THE PRICING AND INCENTIVES AVAILABLE UNDER THE SOURCEWELL CONTRACT ON THE TERMS AND CONDITIONS SET FORTH HEREIN IN ORDER TO RECEIVE INTEGRATED BUSINESS SOLUTIONS SERVICES FROM SUPPLIER.**

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:**

1. **Scope.** Supplier shall provide to the Participating Entity the products and services described in the Sourcwell Contract, which is incorporated by reference. Supplier and Participating Entity agree that the terms set forth in the Sourcwell Contract shall apply, and the parties specifically agree to be bound by such terms.

Notwithstanding the foregoing, the parties agree that any administrative fees described in the Sourcwell Contract are payable only to Sourcwell.

2. **Term of Agreement.** This Participating Addendum shall begin on the Effective Date and shall end when the Sourcwell Contract terminates or expires or when terminated earlier in accordance with the applicable terms and conditions stated herein. As the Sourcwell Contract is renewed or extended, this Participating Addendum may be renewed or extended for a period of time equal to or shorter than the period of time the Sourcwell Contract is renewed or extended upon the mutual written agreement of the parties. Notwithstanding the foregoing, should the parties desire to extend this Participating Addendum past the termination or expiration date of the Sourcwell Contract, the parties may do so by entering into a mutually agreed upon written amendment to this Participating Addendum. Further, as Sourcwell awards new successive agreements to Supplier following expiration of the Sourcwell Contract, any new contract number and/or new terms and conditions may be added with mutual agreement via a written amendment to this Participating Addendum.
3. **On Site Location.** In connection with such the services described in the Sourcwell Contract, Supplier shall operate the space provided by the Participating Entity for the storage and provision of inventory (such space, the “On Site Store(s)”) and provide inventory to Participating Entity’s locations and provide all personnel required to operate the On Site Store(s). Supplier will establish On Site Store(s) at the Participating Entity’s following location(s):

**1527 S. Mayhill Road Denton, TX 76208**  
**804 Texas St Denton, TX 76209**

Additional locations of the Participating Entity may be added to this Participating Addendum but only by a written amendment executed and agreed to by both the Participating Entity and Supplier.

#### **4. Payment Terms and Pricing.**

- (a) Supplier shall invoice the Participating Entity for all inventory purchased pursuant to this Participating Addendum on a monthly basis according to the pricing plan described below. Participating Entity agrees to pay the entire amount of all statements received from Supplier within 30 days of receipt of invoice. If the Participating Entity has not paid the entire amount of all statements received from Supplier within 10 days of the 25th day of the month following receipt of such invoice, the Participating Entity shall be put on COD until such amount is paid in full. No prompt pay discount is available under this Participating Addendum.
- (b) Participating Entity elects to utilize Pricing Option 2 under Exhibit A attached hereto. A sample statement reflecting Supplier's operational costs is attached hereto as Exhibit B, but Participating Entity acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit B are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s).

#### **5. Additional Terms.**

- (a) Primary Supplier. Participating Entity agrees that, unless otherwise set forth in mutually agreed transaction documents, the Participating Entity shall use Supplier as its "Primary Supplier" of the inventory, parts, and equipment covered by this. Participating Entities may purchase items outside of the Participating Addendum where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in Supplier no longer being the Participating Entity's Primary Supplier. "Primary Supplier" means the supplier that provides a minimum of 80% of the inventory needs of the Participating Entity.
- (b) Provision of On Site Store. Participating Entity shall provide usable space for Supplier's On Site Store and inventory, which shall include access to restroom facilities, all utilities for the On Site Store(s) (including water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s)) and a safe work environment to Supplier that is free from hostility, violence, or discrimination of Supplier's employees or agents. Supplier may terminate this Participating Addendum immediately should Supplier encounter a hostile, violent, discriminatory, or unsafe work environment. Participating Entity shall maintain in good condition and repair (so as to prevent any damage or injury to Supplier's employees, the inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).
- (c) Exclusive Access to Parts Room; Risk of Loss. Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of the Participating Entity, and there shall be no intermingling of the Participating Entity's parts or other inventory with Supplier's parts or inventory. Access to the secured portions of the On Site Store location(s) shall be restricted to Supplier employees and authorized Supplier representatives only. Participating Entity's employees, contractors or agents shall not be permitted to enter the secured On Site Store area unless accompanied by a Supplier employee or other authorized Supplier representative unless otherwise agreed upon in writing. Participating Entity shall bear any and all risk of loss or damage from any cause to the inventory and other personal property located in the On Site Store(s), except for loss or damage arising out of the acts, errors or omissions of Supplier. Supplier shall invoice the Participating Entity for any such loss of or damage to the inventory and/or other personal property located in the On Site Store(s), and the

Participating Entity shall pay such invoiced amount to Supplier in accordance with the payment terms set forth herein.

(d) Personnel. Supplier shall provide all personnel necessary to provide the Solutions. With respect to such personnel, Supplier agrees to discuss with and/or discipline an employee for violations of law or policy. In the case that Participating Entity is concerned about the detrimental effects of an employee's actions, Supplier will work in good faith with the Participating Entity to resolve the problem.

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

## **6. Termination.**

- (a) Either Supplier or Participating Entity may terminate this Participating Addendum (i) in the event that the other party fails or refuses to pay any amounts due under such agreement; (ii) in the event that the other party fails or refuses to perform any other obligation required under such agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or (iii) in the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.
  - (b) In addition to the rights set forth in Section 6(a) above, Participating Entity may terminate this Participating Addendum for its convenience on thirty (30) days' written notice. Likewise, Supplier may terminate this Participating Addendum for its convenience on sixty (60) days' written notice.
  - (c) Supplier may terminate the Participating Addendum between Supplier and a Participating Entity or any other agreement executed by Supplier and a Participating Entity immediately in the event that the Participating Entity's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the Participating Entity's premises unusable for the On Site Store(s) in the reasonable judgment of Supplier.
  - (d) Upon termination, expiration, or non-renewal of this Participating Addendum, Supplier shall have the option to require the Participating Entity to purchase all non-NAPA branded inventory owned by Supplier and located in the On Site Store(s) at Supplier's On Site Store's current product acquisition cost, and the Participating Entity shall have the option to purchase all NAPA branded inventory, owned by Supplier and located in the On Site Store(s) at Current NAPA Jobber Acquisition Cost. Upon Participating Entity's request, Supplier shall provide the Participating Entity with a listing of all NAPA and non-NAPA branded inventory owned by Supplier and located in the On Site Store(s).
  - (e) Upon any termination, expiration or non-renewal of the Participating Addendum between Supplier and a Participating Entity or any other agreement executed by Supplier and a Participating Entity, all duties, responsibilities and other obligations of each party shall terminate, except for the payment of any amounts due and owing to Supplier at the time of termination, expiration, or non-renewal. Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property or information owned by the other party that are in such party's possession. The Participating Entity shall allow Supplier to access and enter into the On Site Store location(s) to remove all equipment and other items of personal property owned by Supplier without being deemed guilty of trespass or any other violation of the law.
7. Notices. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered in person or sent by overnight mail through a reputable service, or by certified mail, return receipt requested, to the addresses set forth below:

As to Supplier:  
 Genuine Parts Company  
 2999 Wildwood Parkway  
 Atlanta, GA 30339

Attn: Corporate Counsel

As to Participating Entity:  
City of Denton  
Purchasing Manager – 8806  
901B Texas Street  
Denton, Texas 76209

Each such notice shall be deemed delivered (i) on the date of receipt if delivered by hand or overnight courier service or (ii) on the date three (3) business days after depositing with the United States Postal Service if mailed by registered or certified mail. Either party may change its address specified for this notice by giving the other party at least ten (10) days written notice in accordance with this Section 5.

**8. Miscellaneous.**

- (a) The provisions of this Participating Addendum shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Participating Addendum may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.
- (b) No amendment to this Participating Addendum shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Participating Addendum is executed.
- (c) No failure of either party hereto to exercise any power given such party hereunder or to insist upon strict compliance by the other party to its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. Notwithstanding the same, only waivers made in writing shall be valid and enforceable.
- (d) All obligations of a party under this Participating Addendum are imposed solely and exclusively for the benefit of the parties, and no other person shall, under any circumstances, be deemed to be a beneficiary of such obligations.
- (e) WHILE NOT APPLICABLE TO BREACHES OF CONFIDENTIALITY PROVISIONS, THE PARTIES HEREBY DISCLAIM ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES IN ANY WAY RELATED TO THIS PARTICIPATING ADDENDUM, THEIR OTHER BUSINESS RELATIONSHIPS, OR THE TRANSACTIONS CONTEMPLATED HEREIN.
- (f) The parties hereto are independent contractors. Nothing in this Participating Addendum shall create or shall be deemed to create any fiduciary relationship or the relationship of principal and agent, partnership, joint venturers or any other similar or representative relationship between the parties hereto.
- (g) This Participating Addendum shall be construed and interpreted under the laws of the State of Texas.
- (h) This Participating Addendum 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.
- (i) In the event any part of this Participating Addendum shall be finally determined by a court of law to be illegal or unenforceable for any reason, then that illegal or unenforceable part shall be severed from the Participating Addendum, and the remaining terms shall continue in full force and effect.
- (j) In the event of a conflict between the Sourcwell Contract and this Participating Addendum, this Participating Addendum shall control.
- (k) Whenever performance by Participating Entity or Supplier of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies, pandemics, or by any other cause not within the reasonable control of such party and not occasioned by its

negligence, then such performance shall be excused and the performance of such obligations shall be suspended for the duration of such prevention and for a reasonable time thereafter; provided that the foregoing shall not apply to obligations relating to the payment of money. In the event of a Force Majeure, NAPA shall notify the Participating Entity without undue delay (to be confirmed in writing within five (5) calendar days of knowledge of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

- (l) This Participating Addendum and the Sourcewell Contract constitutes the entire agreement of the parties hereto and no prior representation, inducement, promise or agreement, oral or written, between the parties not embodied herein shall be of any force and effect; however, the rights and remedies set out in this Participating Addendum are cumulative and in addition to (and not in lieu of) any similar rights or remedies available to parties in other contracts, agreements, or through law or equity.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties have executed this Participating Addendum as of the Effective Date.

**GENUINE PARTS COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF DENTON, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**  
**Pricing Options**

**Sourcewell Pricing for NAPA IBS Contract #090624-GPC**

Sourcewell members that elect to use the Sourcewell NAPA IBS #090624-GPC Contract have four options for pricing models based on our on-site vendor managed inventory model.

**1. Sourcewell Member Pricing Option 1: No Markup Goods Pricing/Management Fee**

- Goods are sold to Participating Entity at no markup over NAPA's acquisition cost
- Operating expenses are billed to Participating Entity
- Separate management fee charged to attain a 10% return for NAPA on the sale price of goods

**2. Sourcewell Member Pricing Option 2: Not-to-Exceed 10% Margin Model**

- Goods are sold to Participating Entity at a 10% gross margin over NAPA's acquisition cost
- Operating expenses are billed to Participating Entity
- NAPA's return is built into the price of the part so no separate management fee is billed

**3. Sourcewell Member Pricing Option 3: Not-to-Exceed Pricing Profile 9074 / 25% Margin Model**

- NAPA branded goods are sold to Participating Entity on NAPA Pricing Profile 9074 (details available upon request)
- Non-NAPA sourced goods are sold to Participating Entity at a 25% gross margin over NAPA's acquisition cost
- All Operating Expenses are paid by NAPA and not billed to Participating Entity
- All cost and return are included in the price of the part, so Participating Entity only receives one consolidated statement

**4. Sourcewell Member Pricing Option 4: Not-to-Exceed 11% Markup Model**

- Similar to pricing option 2a, but goods are sold to Participating Entity at an 11% markup over NAPA's acquisition cost (as opposed to gross margin)
- Operating expenses are billed to Participating Entity
- NAPA's return is built into the price of the part so no separate management fee is billed

City of Denton is choosing Option 2.

**PRICING OPTION # 2 (Not-to-Exceed 10% Margin Model).** NAPA shall bill Participating Entity for the following categories: (a) Products, (b) Third Party Services, and (c) Operational Expenses (as defined below). These categories and the pricing for such categories are further defined as follows and in the Pricing Plan Summary below:

- (a) ***Product Price.*** The pricing of NAPA Products shall be Current NAPA Jobber Acquisition Cost, which means NAPA's current gold price as set forth on NAPA's Confidential Jobber Cost and Suggested Resales price list, plus a ten percent (10%) gross profit, which shall be calculated pursuant to the formula set forth in the Pricing Plan Summary set forth below. The pricing of Non-NAPA Products shall be NAPA's current product acquisition cost plus a ten percent (10%) gross profit, which shall be calculated pursuant to the formula set forth in the Pricing Plan Summary set forth below.
- (b) ***Third Party Services Price.*** Third Party Services are those services not traditionally performed by NAPA but requested by Participating Entity, such as windshield repair, towing etc., and Participating Entity shall pay NAPA's cost plus a ten percent (10%) gross profit, which shall be calculated pursuant to the formula set forth in the Pricing Plan Summary set forth below, for any Third Party Services.
- (c) ***Operational Expenses.*** Participating Entity shall reimburse NAPA for any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, obsolescence expense, pension funding costs, accounting fees, general office expenses, and shared service expenses. NAPA shall provide an expense statement of the parts operations to the Participating Entity on approximately the 15<sup>th</sup> day of each month and the operations invoice on approximately the 15<sup>th</sup> of each month for each On Site Store. An example of an expense statement reflecting such costs and expenses is attached hereto as Exhibit D. Participating Entity acknowledges and agrees that the costs and expenses reflected on the expense statement set forth on Exhibit D are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). Participating Entity acknowledges that in order to achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement in order to have fewer employees performing routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency. As a result, each On Site Store location is charged certain corporate allocation expenses for various line items shown on Exhibit D ("Corporate Allocation Expenses") which are calculated as a percentage of total Product sales for each month. As such, there is not a supportive invoice for such expenses other than a monthly allocation rate statement.



**PRICING PLAN SUMMARY**

NAPA Product Price	<p>Billed to Participating Entity at the Current NAPA Jobber Acquisition Cost plus a ten percent (10%) gross profit. The formula for NAPA Product Price for Participating Entity is the Current NAPA Jobber Acquisition Cost divided by .90. This formula will achieve the gross profit rate set forth above.</p> <p>Example: Current NAPA Jobber Acquisition Cost is \$1.00. Participating Entity's price would be <math>\\$1.00/.90=\\$1.11</math></p>
Non-NAPA Product Price	<p>Billed to Participating Entity at NAPA's current product acquisition cost plus a ten percent (10%) gross profit. The formula for Non-NAPA Product Price for Participating Entity is NAPA's current product acquisition cost divided by .90. This formula will achieve the gross profit rate set forth above.</p> <p>Example: NAPA's current product acquisition cost is \$1.00. Participating Entity's price would be <math>\\$1.00/.90=\\$1.11</math></p>
Third Party Services Price	<p>Billed to Participating Entity at NAPA's cost plus a ten percent (10%) gross profit. The formula for Third Party Services for Participating Entity is NAPA's cost divided by .90. This formula will achieve the gross profit rate set forth above.</p> <p>Example: NAPA's cost is \$1.00. Participating Entity's price would be <math>\\$1.00/.90=\\$1.11</math></p>
Operational Expenses	Billed to Participating Entity in accordance with Section (c) above.

**IBS Expense Summary**

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

Exhibit D

City of Denton IBS Mar-25	CURRENT MONTH	% TO SALES	Expense Short Description "All values displayed as whole dollars"
SALES	\$ 321,949	100.00%	← The total purchased this month
Less Cost of Sales	\$ 289,678	89.98%	← NAPA's cost of the goods sold
Sales Less Cost	\$ 32,271	10.02%	← The Gross Profit, or sales minus cost
Cost of Sales Adjustment	\$ -	0.00%	
<b>GROSS PROFIT</b>	<b>\$ 32,271</b>	<b>10.02%</b>	
	\$ -		
<b>TOTAL SALES EXPENSE</b>	<b>\$ -</b>	<b>0.00%</b>	
Accounting Fees	\$ 1,610	0.50%	← Headquarters fees based on sales
Salaries - Delivery	\$ 5,150	1.60%	← Payroll figure for drivers
Salaries - General Office	\$ 2,414	0.75%	← Headquarters fees based on sales
Salaries - Store Branch	\$ 19,227	5.97%	← Payroll figure for all employees minus drivers
Salaries - Overtime	\$ 2,337	0.73%	
<b>TOTAL PAYROLL</b>	<b>\$ 30,738</b>	<b>9.55%</b>	
IT Data Processing	\$ 1,512	0.47%	← Computer equipment leases, maintenance, software
Delivery	\$ 2,800	0.87%	← Delivery truck lease, insurance, fuel, repairs, toll fees
Depreciation - F. & F.	\$ 149	0.05%	← Shelving and Equipment depreciation expense
Empl. Benefits	\$ 5,430	1.69%	← Health & life insurance and pension
Freight & Postage	\$ 1,571	0.49%	← Freight & Postage
Insurance	\$ 614	0.19%	← General Liability Insurance, Workmans Comp
Light, Heat, Water	\$ -	0.00%	
Facility Expense	\$ 211	0.07%	← Rental & Leasehold Charges, Insurance for assets
Tire Disposal / Enviromental fees	\$ 1,256	0.39%	
Store	\$ 1,299	0.40%	← Miscellaneous store expenses
Taxes (Not Income)	\$ 4,401	1.37%	← Taxes:Payroll, Personal Property (Inv)
Telephone	\$ 70	0.02%	← Phone/Modem lines, DSL Support, Joel access fees
Catalogs/Tams/Support Fees	\$ -	0.00%	← Computers (Lease or Depreciation), support fees
Other /Training/Expense	\$ -	0.00%	← Miscellaneous discounts, expenses etc
<b>TOTAL MISC. EXPENSES</b>	<b>\$ 19,313</b>	<b>6.00%</b>	
<b>TOTAL EXPENSES</b>	<b>\$ 50,051</b>	<b>15.55%</b>	← Expenses less discounts earned
Miscellaneous Discounts	\$ -	0.00%	← Discounts from Manufacturers and Suppliers
NAPA Billing entry	\$ 49,975	15.52%	← Net Expense Invoice amount
<b>PROFIT BEFORE TAXES</b>	<b>\$ 32,195</b>	<b>10.00%</b>	← Gross Profit, less Expenses, Plus NAPA Billing

NAPA Monthly Expense Billing Breakdown		
Profits Required:	\$ 32,195	10% of Monthly Parts Sales
Less Profits received:	\$ (32,271)	Profits from Invoices (Sales less cost and adjustments)
Total Expenses	\$ 50,051	
Misc Discounts		
	<u>\$ 49,975</u>	Balance due NAPA after adjustments

**Exhibit F**  
**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 use commercially reasonable efforts to cause its manufacturers to package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the 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.

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

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

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

**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 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 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 – [accountspayable@cityofdenton.com](mailto: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 dispute any invoice submitted by the Contractor in accordance with the provisions of Texas Government Code 2251.

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 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 shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City. The City warrants and represents that it reasonably believes that it will have sufficient funds to make all payments due pursuant to the contract, and hereby covenants that it will take commercially reasonable efforts to obtain, maintain, request and pursue funds from which the said payments may be made.

**14. TRAVEL EXPENSES:** All travel, lodging, and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the Contract 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<sup>th</sup>) 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 City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and two (2) 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. Audit results will be based upon overcharges and undercharges being combined to determine the net impact. If the audit results in a net overcharge, Contractor will issue a check to the City equal to the net overcharge amount. The cost of the audit will be borne by the City.

B. 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 two (2) 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.

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 time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

**V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.**

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

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

E. For the avoidance of any doubt, the parties agree that the term 'Subcontractors' as used herein and throughout these terms and conditions and the Solicitation shall specifically exclude all third party suppliers and manufacturers of the products sold hereunder and all third party delivery service providers including but not limited to, UPS and FedEx.



**19. WARRANTY-PRICE:**

A. Intentionally Omitted.

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. Intentionally Omitted.

**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: INTENTIONALLY DELETED**

**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. ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF CONTRACTOR ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (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.

**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. Likewise, the City shall be in default under the Contract if the City (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract or (b) becomes insolvent or seeks relief under the bankruptcy laws of the United States.

**27. TERMINATION FOR CAUSE:** In the event of a default by either party, the other party shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the defaulting party, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the other party's reasonable satisfaction that such default does not, in fact, exist. Either party may pursue all remedies available under law or in equity, including, without limitation, remedies at law in a court of competent jurisdiction, in the State of Texas. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/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:** Either party shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon ninety (90) calendar days' prior written notice. Upon receipt of a notice of termination, both parties shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof. Each party 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:** 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. 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 negligence, willful misconduct or a breach of any legally imposed strict liability standard.

**B. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE**

**LIABLE FOR AN INDEMNIFIED CLAIM.** To the extent permitted by contract or law, Contractor shall take all such steps as are necessary in order to assign or otherwise extend to the City the full benefit of any representations, warranties, indemnities and other protections that Contractor has received or to which Contractor is otherwise a beneficiary with respect to any product (including any representation, warranty, indemnity or other protection provided by the manufacturer of any product). Additionally, Contractor agrees to use commercially reasonable efforts to ensure that its contracts and other agreements with the manufacturers of any product permit the assignment of any such representations, warranties, indemnities and other protections to subsequent commercial purchasers of the applicable products (including the City).

**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.

B. Specific Coverage Requirements: Specific insurance requirements are contained in 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. **TITLE:** The Contractor represents and warrants to the City that the Contractor shall provide the City good and indefeasible title to the deliverables.

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 DELETED.

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 required by law or 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 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 the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

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

**53. DISPUTE RESOLUTION:**

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

attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

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

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

**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: INTENTIONALLY DELETED.** The parties agree that Contractor will not be required to comply with the requirements of the Buy American Act under this Contract.

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

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

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

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

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

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

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

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

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

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

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

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:** Each party 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. Each party recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

**Exhibit G**  
**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](mailto:purchasing@cityofdenton.com) with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

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

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

**SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:**

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

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

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

**B. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE**

**Workers' Compensation** within the regulations of the Texas Workers'

Compensation Act. The 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.

**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 \$1,000,000.00 per occurrence.

NOTE:

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

**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.**

Genuine Parts Company

**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 7<sup>th</sup> 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:

*Art Fischer*

6/20/2025

\_\_\_\_\_  
Signature of vendor doing business with the governmental entity

\_\_\_\_\_  
Date



## CONFLICT OF INTEREST QUESTIONNAIRE

### For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm](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 3<sup>rd</sup> 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: C4D8FCB0-184E-49AE-9B59-5B1CCE698841

Subject: Please DocuSign: City Council Contract 8806 NAPA

Source Envelope:

Document Pages: 38

Certificate Pages: 6

AutoNav: Enabled

Envelope Stamping: Enabled

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Status: Sent

Envelope Originator:

Kayla Clark

901B Texas Street

Denton, TX 76209

kayla.clark@cityofdenton.com

IP Address: 198.49.140.10

## Record Tracking

Status: Original

6/18/2025 6:45:30 AM

Holder: Kayla Clark

kayla.clark@cityofdenton.com

Location: DocuSign

## Signer Events

Kayla Clark

kayla.clark@cityofdenton.com

Buyer

City of Denton

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

## Signature

**Completed**

Using IP Address: 198.49.140.10

## Timestamp

Sent: 6/18/2025 7:03:11 AM

Viewed: 6/18/2025 7:03:18 AM

Signed: 6/18/2025 7:03:29 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

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Sent: 6/18/2025 7:03:32 AM

Viewed: 6/18/2025 7:04:34 AM

Signed: 6/18/2025 7:22:37 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: 198.49.140.104

Sent: 6/18/2025 7:22:40 AM

Viewed: 6/19/2025 9:10:50 PM

Signed: 6/19/2025 9:11:12 PM

Art Fischer

art\_fischer@genpt.com

Division Vice President

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

Accepted: 6/20/2025 5:58:15 AM

ID: ec4d72f3-6398-4973-b53d-5e3d812dee91

Signed by:  
  
CCA7C6D0DBDF41A...

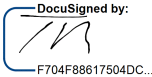
Signature Adoption: Pre-selected Style

Using IP Address: 104.225.184.221

Sent: 6/19/2025 9:11:15 PM

Viewed: 6/20/2025 5:58:15 AM

Signed: 6/20/2025 7:00:05 AM

Signer Events	Signature	Timestamp
Thomas Gramer Tom.Gramer@cityofdenton.com Director Facilities and Fleet Security Level: Email, Account Authentication (None)	 Signature Adoption: Drawn on Device Using IP Address: 198.49.140.10	Sent: 6/20/2025 7:00:08 AM Viewed: 6/20/2025 7:01:09 AM Signed: 6/20/2025 7:01:18 AM

**Electronic Record and Signature Disclosure:**  
Accepted: 6/20/2025 7:01:09 AM  
ID: 1c436657-17f6-4a96-85b0-8603cf890358

Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	Sent: 6/20/2025 7:01:22 AM
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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Lauren Thoden  
lauren.thoden@cityofdenton.com  
Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

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

Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 6/18/2025 7:03:32 AM
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**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 6/20/2025 7:01:22 AM Viewed: 6/20/2025 7:44:53 AM
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Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure:  
Not Offered via DocuSign

City Secretary Office  
citysecretary@cityofdenton.com  
Security Level: Email, Account Authentication  
(None)

Electronic Record and Signature Disclosure:  
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	6/18/2025 7:03:11 AM
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Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

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

### **Getting paper copies**

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

### **Withdrawing your consent**

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

### **Consequences of changing your mind**

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

### **All notices and disclosures will be sent to you electronically**

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

**How to contact City of Denton:**

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

To contact us by email send messages to: [purchasing@cityofdenton.com](mailto: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](mailto: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](mailto: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](mailto:purchasing@cityofdenton.com) and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

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

\*\* 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.