

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., FOR THE WATER/WASTEWATER IMPACT FEE STUDY FOR THE CITY OF DENTON WATER UTILITIES DEPARTMENT AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7998 – PROFESSIONAL SERVICES AGREEMENT FOR PROFESSIONAL SERVICES AWARDED TO KIMLEY-HORN AND ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$194,600.00).

WHEREAS, Kimley-Horn and Associates, Inc., the professional services provider (the “Provider”) set forth in this ordinance, is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Manager, or their designee, is authorized to enter into the professional service contract attached hereto with Kimley-Horn and Associates, Inc., for the Water/Wastewater Impact Fee Study for the City of Denton Water Utilities Department.

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

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

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

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

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

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Jesse Davis, District 3:	_____	_____	_____	_____
Alison Maguire, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2022.


GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____


Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o, ou=City of Denton, email=marcella.lunn@cityofdenton.com, c=US
Date: 2022.07.20 17:31:54 -05'00'



Docusign City Council Transmittal Coversheet

RFQ	7998
File Name	Impact Fee Wastewater/Water
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	No
Contract Expiration	
Ordinance	

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTING SERVICES
FILE 7998**

STATE OF TEXAS §

COUNTY OF DENTON §

THIS AGREEMENT (the "Agreement") is made and entered into on _____, by and between the City of Denton, Texas, a Texas municipal corporation, with its principal office at 215 East McKinney Street, Denton, Denton County, Texas 76201, hereinafter called "OWNER" and Kimley-Horn and Associates, Inc., with its corporate office at 801 Cherry St, Suite 1300, Unit 11, Fort Worth, TX 76102, hereinafter called "CONSULTANT," acting herein, by and through their duly authorized representatives.

WITNESSETH, that in consideration of the covenants and agreements herein contained, the parties hereto do mutually agree as follows:

**ARTICLE I
CONSULTANT AS INDEPENDENT CONTRACTOR**

The OWNER has selected CONSULTANT on the basis of demonstrated competence and qualifications to perform the services herein described for a fair and reasonable price pursuant to Chapter 2254 of the Texas Government Code. The OWNER hereby contracts with the CONSULTANT as an independent contractor and not as an employee, and as such, the OWNER will not assert control over the day-to-day operations of the CONSULTANT. The CONSULTANT is customarily engaged to provide services as described herein independently and on a nonexclusive basis in the course of its business. This Agreement does not in any way constitute a joint venture between OWNER and CONSULTANT. The CONSULTANT hereby agrees to perform the services described herein based on the skills required for the scope of work in connection with the Project as stated in the sections to follow, with diligence and in accordance with the highest professional standards customarily obtained for such services in the State of Texas. The professional services set out herein are in connection with the following described project:

The Project shall include, without limitation, Water/Wastewater Impact Fee Study, as described in Exhibit A, which is on file at the purchasing office and incorporated herein (the "Project").

**ARTICLE II
SCOPE OF BASIC SERVICES**

The CONSULTANT shall perform the following services in a professional manner:

- A. The CONSULTANT shall perform all those services as necessary and as described in the OWNER's RFQ 7998 – Water/Wastewater Impact Fee Study which is on file at the purchasing office and made a part hereof as **Exhibit A** as if written word for word herein.
- B. To perform all those services set forth in CONSULTANT's proposal, which proposal is attached hereto and made a part hereof as **Exhibit B** as if written word for word herein.
- C. CONSULTANT shall perform all those services set forth in individual task orders, as described in **Exhibit B**, which shall be attached to this Agreement and made a part hereof.
- D. If there is any conflict between the terms of this Agreement and the exhibits attached to this Agreement, the terms and conditions of this Agreement will control over the terms and conditions of the attached exhibits or task orders.

ARTICLE III **ADDITIONAL SERVICES**

Additional services to be performed by the CONSULTANT, if authorized by the OWNER, which are not included in the above-described Basic Services, may be negotiated as needed, per rates included in **Exhibit B**.

- A. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- B. Preparing data and reports for assistance to OWNER in preparation for hearings before regulatory agencies, courts, arbitration panels or mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- C. Assisting OWNER in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
- D. Assisting OWNER in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT. Such services, if any, shall be furnished by CONSULTANT on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT.
- E. Visits to the site in excess of the number of trips included in **Exhibit B**.
- F. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.

ARTICLE IV

TIME OF COMPLETION

CONSULTANT is authorized to commence work under this contract upon execution of this AGREEMENT. CONSULTANT shall perform and complete its obligations herein in a prompt and continuous manner, so as to not delay the completion of the Project in accordance with the schedules as described in **Exhibit B**. The contract shall remain effective for a period which may reasonably be required for the completion of the Project, acceptance by an authorized representative of the OWNER, exhaustion of authorized funds, or termination as provided in this Agreement, whichever occurs first.

ARTICLE V

COMPENSATION

A. COMPENSATION TERMS:

1. "Subcontract Expense" is defined as expenses incurred by the CONSULTANT in employment of others in outside firms for services related to this agreement.
2. "Direct Non-Labor Expense" is defined as that expense for any assignment incurred by the CONSULTANT for supplies, transportation and equipment, travel, communications, subsistence, and lodging away from home, and similar incidental expenses in connection with that assignment.

B. BILLING AND PAYMENT: For and in consideration of the professional services to be performed by the CONSULTANT herein, the OWNER agrees to pay, based on the cost estimate detail at an hourly rate shown in **Exhibit B** which is attached hereto and made a part of this Agreement as if written word for word herein, a total fee, including reimbursement for direct non-labor expenses not to exceed **\$194,600**.

Partial payments to the CONSULTANT will be made on the basis of detailed monthly statements rendered to and approved by the OWNER through its City Manager or his designee; however, under no circumstances shall any monthly statement for services exceed the value of the work performed at the time a statement is rendered.

Nothing contained in this Article shall require the OWNER to pay for any work which is unsatisfactory, as reasonably determined by the City Manager or his designee, or which is not submitted in compliance with the terms of this Agreement. The OWNER shall not be required to make any payments to the CONSULTANT when the CONSULTANT is in default under this Agreement.

It is specifically understood and agreed that the CONSULTANT shall not be authorized to undertake any work pursuant to this Agreement which would require additional payments by the OWNER for any charge, expense, or reimbursement above the maximum not to exceed fee as stated, without first having obtained written authorization from the OWNER. The CONSULTANT shall not proceed to perform the services listed

in Article III "Additional Services," without obtaining prior written authorization from the OWNER.

- C. **ADDITIONAL SERVICES:** For additional services authorized in writing by the OWNER in Article III, the CONSULTANT shall be paid based on the Schedule of Charges at an hourly rate shown in **Exhibit B**. Payments for additional services shall be due and payable upon submission by the CONSULTANT and approval by the City staff, and shall be in accordance with subsection B hereof. Statements shall not be submitted more frequently than monthly.
- D. **PAYMENT:** If the OWNER fails to make payments due the CONSULTANT for services and expenses within thirty (30) days after receipt of the CONSULTANT's undisputed statement thereof, the amounts due the CONSULTANT will be paid interest in accordance with the Texas Government Code 2251.025. Additionally, the CONSULTANT may, after giving seven (7) days' written notice to the OWNER, suspend services under this Agreement until the CONSULTANT has been paid in full all amounts due for services, expenses, and charges. Nothing herein shall require the OWNER to pay the late charge if the OWNER reasonably determines that the work is unsatisfactory, in accordance with this Article V, "Compensation," there is a bona fide dispute concerning the amount due, or the invoice was not mailed to the address or in the form as described in this Agreement. The OWNER will notify CONSULTANT of any disputes within twenty-one (21) days of receipt of the invoice.
- E. **Invoices** shall be sent directly to the City of Denton Accounts Payable Department, 215 E McKinney St, Denton, TX, 76201-4299. A pro-forma invoice shall be sent to the contract administrator. It is the intention of the City of Denton to make payment on completed orders within thirty days after receipt of invoice or items; whichever is later, unless unusual circumstances arise. **Invoices must be fully documented as to labor, materials, and equipment provided, if applicable, and must reference the City of Denton Purchase Order Number in order to be processed. No payments shall be made on invoices not listing a Purchase Order Number.**

ARTICLE VI

OBSERVATION AND REVIEW OF THE WORK

The CONSULTANT will exercise reasonable care and due diligence in discovering and promptly reporting to the OWNER any defects or deficiencies in the work of the CONSULTANT or any subcontractors or subconsultants.

ARTICLE VII

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by the CONSULTANT (and CONSULTANT's subcontractors or subconsultants) pursuant to this Agreement are instruments of service, and shall become the property of the OWNER upon the termination of this Agreement. The CONSULTANT is entitled to retain copies of all such documents. The documents prepared and furnished by the CONSULTANT are intended only to be applicable to this Project, and

OWNER's use of these documents in other projects shall be at OWNER's sole risk and expense. In the event the OWNER uses any of the information or materials developed pursuant to this Agreement in another project or for other purposes than specified herein, CONSULTANT is released from any and all liability relating to their use in that project.

ARTICLE VIII **INDEMNITY AGREEMENT**

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

ARTICLE IX **INSURANCE**

During the performance of the services under this Agreement, CONSULTANT shall maintain insurance in compliance with the requirements of **Exhibit C** which is attached hereto and made a part of this Agreement as if written word for word herein.

ARTICLE X **ALTERNATIVE DISPUTE RESOLUTION**

The parties may agree to settle any disputes under this Agreement by submitting the dispute to mediation with each party bearing its own costs of mediation. No mediation arising out of or relating to this Agreement, involving one party's disagreement may include the other party to the disagreement without the other's approval. Mediation will not be a condition precedent to suit.

ARTICLE XI **TERMINATION OF AGREEMENT**

- A. Notwithstanding any other provision of this Agreement, either party may terminate by giving thirty (30) days' advance written notice to the other party.
- B. This Agreement may be terminated in whole or in part in the event of either party substantially failing to fulfill its obligations under this Agreement. No such termination will be affected unless the other party is given (1) written notice (delivered by certified mail, return receipt requested) of intent to terminate and setting forth the reasons specifying the non-performance, and not less than fifteen (15) calendar days to cure the failure; and (2) an opportunity for consultation with the terminating party prior to termination.

- C. If the Agreement is terminated prior to completion of the services to be provided hereunder, CONSULTANT shall immediately cease all services and shall render a final bill for services to the OWNER within thirty (30) days after the date of termination. The OWNER shall pay CONSULTANT for all services properly rendered and satisfactorily performed and for reimbursable expenses to termination incurred prior to the date of termination, in accordance with Article V "Compensation." Should the OWNER subsequently contract with a new consultant for the continuation of services on the Project, CONSULTANT shall cooperate in providing information. The CONSULTANT shall turn over all documents prepared or furnished by CONSULTANT pursuant to this Agreement to the OWNER on or before the date of termination, but may maintain copies of such documents for its use.

ARTICLE XII

RESPONSIBILITY FOR CLAIMS AND LIABILITIES

Approval by the OWNER shall not constitute, nor be deemed a release of the responsibility and liability of the CONSULTANT, its employees, associates, agents, subcontractors, and subconsultants for the accuracy and competency of their designs or other work; nor shall such approval be deemed to be an assumption of such responsibility by the OWNER for any defect in the design or other work prepared by the CONSULTANT, its employees, subcontractors, agents, and consultants.

ARTICLE XIII

NOTICES

All notices, communications, and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail to the address shown below, certified mail, return receipt requested, unless otherwise specified herein. Mailed notices shall be deemed communicated as of three (3) days' mailing:

To CONSULTANT:

Kimley-Horn and Associates, Inc.
Aaron Rader, P.E.
801 Cherry St., Suite 1300, Unit 11
Fort Worth, TX 76102

To OWNER:

City of Denton
Purchasing Manager –File 7998
901B Texas Street
Denton, Texas 76201

All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three (3) days' mailing.

ARTICLE XIV

ENTIRE AGREEMENT

This Agreement and related exhibits constitute the complete and final expression of this Agreement of the parties, and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior contemporaneous offers, promises, representations,

negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

ARTICLE XV **SEVERABILITY**

If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform this Agreement to replace such stricken provision with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

ARTICLE XVI **COMPLIANCE WITH LAWS**

The CONSULTANT shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the work covered hereunder as those laws may now read or hereinafter be amended.

ARTICLE XVII **DISCRIMINATION PROHIBITED**

In performing the services required hereunder, the CONSULTANT shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, national origin or ancestry, age, or physical handicap.

ARTICLE XVIII **PERSONNEL**

- A. The CONSULTANT represents that it has or will secure, at its own expense, all personnel required to perform all the services required under this Agreement. Such personnel shall not be employees or officers of, or have any contractual relations with the OWNER. CONSULTANT shall inform the OWNER of any conflict of interest or potential conflict of interest that may arise during the term of this Agreement.
- B. All services required hereunder will be performed by the CONSULTANT or under its supervision. All personnel engaged in work shall be qualified, and shall be authorized and permitted under state and local laws to perform such services.

ARTICLE XIX **ASSIGNABILITY**

The CONSULTANT acknowledges that this Agreement is based on the demonstrated competence and specific qualifications of the CONSULTANT and is therefore personal as to the CONSULTANT. Therefore, the CONSULTANT shall not assign any interest in this Agreement, and shall not transfer any interest in this Agreement (whether by assignment, novation, or otherwise) without the prior written consent of the OWNER.

ARTICLE XX **MODIFICATION**

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or obligations of the parties hereunder, and unless such waiver or modification is in writing and duly executed; and the parties further agree that the provisions of this section will not be waived unless as set forth herein.

ARTICLE XXI **MISCELLANEOUS**

A. The following exhibits are attached to and made a part of this Agreement:

Exhibit A – RFQ 7998 – Water/Wastewater Impact Fee Study (on file at the purchasing office)

Exhibit B – Consultant's Scope of Services Offer, Project Schedule and Compensation Rate Sheet

Exhibit C – Consultant's Insurance Requirements

What is called for by one exhibit shall be as binding as if called for by all. In the event of an inconsistency or conflict in this Agreement and any of the provisions of the exhibits, the inconsistency or conflict shall be resolved by giving precedence first to this Agreement then to the exhibits in the order in which they are listed above.

B. This Agreement shall be governed by, construed, and enforced in accordance with, and subject to, the laws of the State of Texas or federal law, where applicable, without regard to the conflict of law principles of any jurisdiction. In the event there shall be any dispute arising out of the terms and conditions of, or in connection with, this Agreement, the party seeking relief shall submit such dispute to the District Courts of Denton County or if federal diversity or subject matter jurisdiction exists, to the United States District Court for the Eastern District of Texas-Sherman Division.

C. For the purpose of this Agreement, the key persons who will perform most of the work hereunder shall be Aaron Rader, P.E. However, nothing herein shall limit CONSULTANT from using other equally qualified and competent members of its firm to perform the services required herein.

D. CONSULTANT shall commence, carry on, and complete any and all projects with all applicable dispatch, in a sound, economical, and efficient manner and in accordance with the provisions hereof. In accomplishing the projects, CONSULTANT shall take such steps as are appropriate to ensure that the work involved is properly coordinated with related work being carried on by the OWNER.

- E. The OWNER shall assist the CONSULTANT by placing at the CONSULTANT's disposal all available information pertinent to the Project, including previous reports, any other data relative to the Project, and arranging for the access thereto, and make all provisions for the CONSULTANT to enter in or upon public and private property as required for the CONSULTANT to perform services under this Agreement.
- F. The captions of this Agreement are for informational purposes only, and shall not in any way affect the substantive terms or conditions of this Agreement.
- G. 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.

ARTICLE XXII

INDEPENDENT CONTRACTOR

CONSULTANT shall provide services to OWNER as an independent contractor, not as an employee of the OWNER. CONSULTANT shall not have or claim any right arising from employee status.

ARTICLE XXIII

RIGHT TO AUDIT

The OWNER shall have the right to audit and make copies of the books, records and computations pertaining to this agreement. The CONTRACTOR shall retain such books, records, documents and other evidence pertaining to this agreement during the contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within 10 business days of written request. Further, the CONTRACTOR shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to this agreement, and to allow the OWNER similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the OWNER unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the CONTRACTOR which must be payable within five business days of receipt of an invoice.

Failure to comply with the provisions of this section shall be a material breach of this contract and shall constitute, in the OWNER'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.

ARTICLE XXIV

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.

ARTICLE XXV

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.

ARTICLE XXVI

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

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 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.

ARTICLE XXVII

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.

ARTICLE XXVIII

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.

ARTICLE XXIX

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 Consultant submits a disclosure of interested parties (Form 1295) to the City at the time the Consultant submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

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

The consultant shall:

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

The OWNER 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.

ARTICLE XXX
PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS

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

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 HEREOF, the City of Denton, Texas has caused this Agreement to be executed by its duly authorized City Manager, and CONSULTANT has executed this Agreement through its duly authorized undersigned officer on this date_____.

DocuSigned by:
CONSULTANT
 BY: *Aaron Rader*
59DE69F0791D422...
AUTHORIZED SIGNATURE
 Aaron Rader
 Printed Name: _____
 Title: Vice President _____

281-896-0734

PHONE NUMBER
 Aaron.Rader@Kimley-Horn.com

EMAIL ADDRESS
 2022-908897

TEXAS ETHICS COMMISSION

1295 CERTIFICATE NUMBER

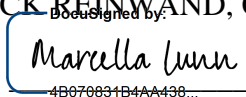
CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

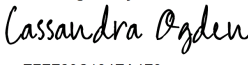
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____
DocuSigned by:
4B670631B4AA436...

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

DocuSigned by:

E7FF20C194EA4F9...

Cassandra Ogden

SIGNATURE

PRINTED NAME

Chief Financial Officer

TITLE

Finance

DEPARTMENT

Exhibit B

Scope for Engineering Design Related Services for:

WATER AND WASTEWATER IMPACT FEE UPDATE

The ENGINEER will perform its services pursuant to the requirements delineated below. Services under this exhibit include engineering services for the updating of Denton's Water and Wastewater Impact Fees.

Project Understanding

The following scope of services provides the OWNER with professional services related to the update to the Water, and Wastewater Impact Fees. This scope of services will provide the OWNER with the technical analysis required by Chapter 395 of the Texas Local Government Code to determine the maximum assessable water, and wastewater impact fee that may be assessed. In addition, CONSULTANT will provide the OWNER with assistance with the various presentations required during the public hearing and adoption process.

The project is anticipated to include the following components:

1. Project Initiation and Management
2. Land Use Assumptions
3. Water Impact Fee Update
4. Wastewater Impact Fee Update
5. Financial Analysis
6. Water and Wastewater Impact Fee Document and Adoption Process

ENGINEER's scope of services is as follows:

- 1) **Project Initiation and Management** – CONSULTANT shall complete the following items relating to this task:
 - a) **Project Kickoff Meeting.**
 - i) Prepare for and attend kickoff workshop with City staff to begin project.
 - ii) Review wastewater master plan changes and ongoing Water Master Plan with City staff in preparation for updating the water and wastewater impact fee calculations and report.
 - iii) Prepare meeting notes.
 - b) **Project Management.**
 - i) Define contacts in OWNER's departments (Planning, Finance, Engineering) and the corresponding contacts with CONSULTANT.
 - ii) Sub-Consultant Coordination
 - iii) Project administration and status reports - Prepare and submit monthly status reports including schedule updates, critical tasks, and Sub-Consultant progress in conjunction with the monthly billing.

Exhibit B

DESIGN SERVICES FOR
WATER AND WASTEWATER IMPACT FEE UPDATE

- 2) **Land Use Assumptions** – OWNER shall provide CONSULTANT land use assumptions data in conformance with Chapter 395 of the Local Government Code; completion of this task shall include the following items:
- a) **Data Collection**. CONSULTANT will deliver a letter to the OWNER describing data that should be provided to the CONSULTANT. The scope for data collection is as follows:
 - i) The OWNER will utilize data from the ongoing Wastewater Master Plan demographic projections completed as part of a separate contract.
 - ii) The CONSULTANT will utilize data from the ongoing Water Master demographic projections being completed as part of separate contract.
 - iii) Maps – CONSULTANT will utilize GIS shapefiles, associated databases, and layer files in ESRI ArcGIS format. All data shall be projected in NAD 83 State Plane, North Central Texas Zone coordinates. Data should include:
 - (1) Current Zoning Map
 - (2) Future Land Use Plan
 - (3) City Limits, ETJ Limits
 - (4) Current Impact Fee Water and Wastewater Service Area Limits
 - (5) Most recent digital orthographic (DOQ) of the City
 - b) **Service Area Boundaries**. CONSULTANT will meet with the OWNER to review current service areas. CONSULTANT will revise service area(s) boundaries and submit to the OWNER for review. If changes are required CONSULTANT will revise service area(s) boundaries following City Council discussion for OWNER review.
 - c) **Ten-Year Land Use Assumptions**. Chapter 395 states that impact fees may only be used to pay for items included in the capital improvements plan and attributable to new service units projected over a period of time not to exceed ten (10) years. Based upon guidance from the OWNER, CONSULTANT will develop the Ten-Year Land Use Assumptions for the 2023 – 2033 planning window.
 - (1) CONSULTANT will conduct one (1) meeting with the OWNER to receive the OWNER's projections for expected growth rates for the land use for current service area(s). CONSULTANT will review the OWNER's information and develop the demographic table using population by households to develop 10-year population projections.
 - d) **Land Use Documentation**. CONSULTANT will provide both a draft and final Land Use Assumptions to be incorporated as a chapter into the Impact Fee Report. The chapter will include:
 - i) Water service area(s)
 - ii) Wastewater service area
 - iii) 10-year land use and population
 - iv) Exhibits
 - v) Draft versions of the Land Use Assumptions will be submitted in .pdf format.

Exhibit B

- e) Meetings. CONSULTANT will prepare for and attend the following meetings:
- i) One (1) meeting with OWNER to discuss and review the proposed Land Use Assumptions. It is anticipated that up to five (5) service areas (4 water and 1 wastewater) will be discussed at the meetings.
 - ii) One (1) meeting with City Council to discuss and solicit feedback on the number of water service area boundaries for the proposed Land Use Assumptions. It is anticipated that up to four (4) water service areas and one (1) wastewater service area will be discussed at the meeting.
- f) Deliverables.
- i) Data collection request letter
 - ii) Electronic (.pdf) copy of the Draft Land Use Assumptions
 - iii) Upon final approval of the Impact Fee, CONSULTANT will provide three (3) originals of the Final Impact Fee Report, including the Land Use Assumptions component of the Report (See Task 6)
- 3) **Water Impact Fee Update** – CONSULTANT will prepare the water impact fee update in conformance with Chapter 395 of the Local Government Code and shall include:
- a) Data Collection. CONSULTANT will coordinate with the OWNER to obtain the following data:
- i) Water Master Plan – CONSULTANT will utilize the Water Master Plan being worked on as part of a separate contract.
 - ii) Water CCN Boundary
 - iii) Water Usage History – Annual water usage and maximum day usage records for the past ten (10) years for certification of current demand by service unit and development of the service unit projection.
 - iv) Water Meter Data – List of current water meter accounts by meter size.
- b) Infrastructure Capacity Criteria. CONSULTANT will utilize the OWNER's current criterion in determining the ten (10) year capacity of the impact fee eligible projects. The projects may include:
- i) Existing and future transmission lines (16-inch and larger)
 - ii) Existing and future elevated storage tanks
 - iii) Existing and future ground storage tanks
 - iv) Existing and future pump stations
 - v) Existing and future treatment facilities
 - vi) Existing and future supply facilities
- c) Water Impact Fee Capital Improvements Plan. CONSULTANT will develop the Water Impact Fee Capital Improvements Plan project list with the OWNER. It may include the following infrastructure:

Exhibit B

- i) Future transmission lines (16-inch and larger)
 - ii) Existing and future elevated storage tanks
 - iii) Existing and future ground storage tanks
 - iv) Existing and future pump stations
 - v) Existing and future treatment facilities
 - vi) Existing and future supply facilities
- d) Maximum Assessable Water Impact Fee Calculation. CONSULTANT will calculate the additional service units based on the Land Use Assumptions. CONSULTANT will then calculate the Impact Fee per service unit, (Single Family Equivalent) and associated meter size and the Pre-Credit Maximum Assessable Water Impact Fee by meter size. CONSULTANT will incorporate the financial analysis performed in Task 5 to determine the maximum assessable impact fee by service unit.
- e) Water Impact Fee Update Report. CONSULTANT will provide both a draft and final Water Impact Fee Report. The report will include:
- i) Water service area(s)
 - ii) Narrative of the impact fee update methodology
 - iii) Impact Fee Capital Improvement Plan 10-year capacity criterion
 - iv) Impact Fee Capital Improvement Plan
 - v) Impact fee calculations
 - vi) Exhibits
- f) Meetings. CONSULTANT will prepare for and attend the following meetings:
- i) One (1) meeting with OWNER to review Water Impact Fee Capital Improvements Plan.
 - ii) One (1) meeting with OWNER to review Maximum Assessable Water Impact Fees.
- g) Deliverables
- i) Electronic (.pdf) copy of the Draft Water Impact Fee chapter of the report.
 - ii) Upon final approval of the Impact Fee, CONSULTANT will provide three (3) originals of the Final Impact Fee Report, including the Water Impact Fee component of the Report (See Task 6)
- 4) **Wastewater Impact Fee Update** – CONSULTANT will prepare the wastewater impact fee update in conformance with Chapter 395 of the Local Government Code and shall include:
- a) Data Collection. CONSULTANT will coordinate with the OWNER to obtain the following data:
- i) Wastewater Master Plan – CONSULTANT will utilize the Wastewater Master Plan being worked on as part of a separate contract.
 - ii) Wastewater CCN Boundary
 - iii) Wastewater Discharge History – Annual wastewater discharge records for the past

Exhibit B

ten (10) years for verification of current demand by service unit and development of the service unit projection.

- b) Infrastructure Capacity Criteria. CONSULTANT will utilize the OWNER's current criterion in determining the ten (10) year capacity of the impact fee eligible projects. The projects may include:
 - i) Existing Trunk Lines that are 21-inch and larger
 - ii) Future Trunk Lines (21-inch and larger)
 - iii) Existing and Future Lift Stations
 - iv) Existing and Future Force Mains
 - v) Existing and Future Treatment Facilities
- c) Wastewater Impact Fee Capital Improvements Plan. CONSULTANT will develop the Wastewater Impact Fee Capital Improvements Plan project list with the OWNER. It may include the following infrastructure:
 - i) Existing Trunk Lines that are 21-inch and larger
 - ii) Future Trunk Lines (21-inch and larger)
 - iii) Existing and Future Lift Stations
 - iv) Existing and Future Force Mains
 - v) Existing and Future Treatment Facilities
- d) Maximum Assessable Wastewater Impact Fee Calculation. CONSULTANT will calculate the additional service units based on the Land Use Assumptions. CONSULTANT will then calculate the Impact Fee per service unit, (Single Family Equivalent) and associated meter size and the Pre-Credit Maximum Assessable Wastewater Impact Fee by meter size. CONSULTANT will incorporate the financial analysis performed in Task 5 to determine the maximum assessable impact fee by service unit.
- e) Wastewater Impact Fee Update Report. CONSULTANT will provide both a draft and final Wastewater Impact Fee Report. The report will include:
 - i) Wastewater service area
 - ii) Narrative of the impact fee update methodology
 - iii) Impact Fee Capital Improvement Plan 10-year capacity criterion
 - iv) Impact Fee Capital Improvement Plan
 - v) Impact fee calculations
 - vi) Exhibits
- f) Meetings. CONSULTANT will prepare for and attend the following meetings:
 - i) One (1) meeting with OWNER to review Wastewater Impact Fee Capital Improvements Plan.
 - ii) One (1) meeting with OWNER to review Maximum Assessable Wastewater Impact Fees.

Exhibit B

g) Deliverables

- i) Electronic (.pdf) copy of the Draft Wastewater Impact Fee chapter of the report.
- ii) Upon final approval of the Impact Fee, CONSULTANT will provide three (3) originals of the Final Impact Fee Report, including the Wastewater Impact Fee component of the Report (See Task 6)

5) **Financial Analysis** Using the impact fee eligible capital improvement costs and projected service units, the CONSULTANT's Sub-Consultant [NewGen Strategies & Solutions (NewGen)] will calculate maximum assessable full-cost recovery impact fees for the designated ten-year period for each service unit (water, and wastewater). Sub-Consultant will provide forecasted cash flows for the maximum assessable impact fee for the ten-year period based on projected construction lead times and growth in projected service units. CONSULTANT will work in conjunction with Sub-Consultant to incorporate the financial analysis into the appropriate document, as identified in Tasks 3, and 4.

6) **Water and Wastewater Impact Fee Document and Adoption Process**

a) **Water and Wastewater Documentation.** CONSULTANT will provide both a draft and final Water and Wastewater Impact Fee Report. The report will include:

i) **Executive Summary**

- (1) Introduction
- (2) Impact Fee Methodology
- (3) Water and Wastewater Maximum Fee Calculation Results

ii) **Land Use Assumptions**

- (1) Water service area(s)
- (2) Wastewater service area

iii) **Water**

- (1) Narrative of the impact fee update methodology
- (2) Impact Fee Capital Improvement Plan 10-year capacity criterion
- (3) Impact Fee Capital Improvement Plan with project narratives and opinions of probable construction cost
- (4) Impact Fee CIP Exhibits
- (5) Impact Fee Calculations

iv) **Wastewater**

- (1) Narrative of the impact fee update methodology
- (2) Impact Fee Capital Improvement Plan 10-year capacity criterion
- (3) Impact Fee Capital Improvement Plan with project narratives and opinions of probable construction cost
- (4) Impact Fee CIP Exhibit
- (5) Impact Fee Calculations

v) **Appendix**

Exhibit B

(1) Financial Analysis

b) Deliverables

- i) Electronic (.pdf) copy of the Draft Water and Wastewater Impact Fee Report; and
- ii) Three (3) 8.5" x 11" hard copies of the Draft Water and Wastewater Impact Fee Report
- iii) Upon final approval of the Water and Wastewater Impact Fee Analysis and new ordinance by the City Council, CONSULTANT will provide three (3) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Water and Wastewater Impact Fee Report.

c) Adoption Process

It is anticipated that a representative from the CONSULTANT will prepare for and attend up to four (4) meetings during the public hearing and approval process. These anticipated meetings are as follows:

- i) One (1) Public Utility Board presentation on the Water and Wastewater Impact Fees, including the Land Use Assumptions, Impact Fee CIP and Maximum Assessable Impact Fees;
- ii) One (1) CIAC public hearing to present on the Water and Wastewater Impact Fees, including the Land Use Assumptions, Impact Fee CIP and Maximum Assessable Impact Fees; and
- iii) Two (2) City Council public hearings on the Water and Wastewater Impact Fees, including the Land Use Assumptions, Impact Fee CIP and Maximum Assessable Impact Fees

d) Other Approval and Implementation Items

- i) CONSULTANT will collect information on actual water and wastewater impact fees collected for up to six (6) benchmark service providers. This information will be provided to the OWNER in electronic (.xls) tabular format for use in the development of comparison tables.
- i) At the request of the OWNER, the CONSULTANT will review the proposed Impact Fee Ordinance and prepared by the City Attorney. It is anticipated the City Attorney will require exhibits from the Water and Wastewater Impact Fee Report to be included in the ordinance. CONSULTANT recommends the City coordinate with their Attorney to ensure they will be able to prepare the ordinance during Task 6.

Exhibit B

DESIGN SERVICES FOR
WATER AND WASTEWATER IMPACT FEE UPDATE**ADDITIONAL SERVICES NOT INCLUDED
IN THE EXISTING SCOPE OF SERVICES**

OWNER and CONSULTANT agree that the following services are beyond the Scope of Services described in the tasks above. However, CONSULTANT can provide these services, if needed, upon the OWNER's written request. Any additional amounts paid to CONSULTANT as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include, but are not limited to the following:

- Preparation for an attendance at additional public meetings not specifically identified in the Scope of Services.
- Furnish additional copies of the review documents in excess of the number of the same identified in the Scope of Services.
- Re-analysis or re-calculation to reflect project scope of changes or policy changes requested by the OWNER, addressing changes in direction previously approved by the OWNER, or mandated by changes in government laws.
- Any services not listed in the Scope of Services

Exhibit B

DESIGN SERVICES FOR
WATER AND WASTEWATER IMPACT FEE UPDATE

PROJECT SCHEDULE

CONSULTANT endeavors to complete OWNER Water and Wastewater Impact Fee Update twelve (12) months from Notice to Proceed.

CONSULTANT will provide additional detailed schedule to OWNER upon further discussion regarding priority areas for analysis and recommendation upon execution of the contract.

Exhibit B

COMPENSATION FOR
WATER AND WASTEWATER IMPACT FEE STUDY UPDATE

Compensation for Engineering Design Related Services for:

WATER AND WASTEWATER IMPACT FEE STUDY UPDATE

Total compensation for the CONSULTANT contemplated under the terms of this agreement **shall be a total not-to-exceed \$194,600** for all services including reimbursable expenses. The OWNER shall compensate the CONSULTANT as follows:

For Tasks 1-6 the total compensation shall be on a lump sum basis and not to exceed **\$194,600**.

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

Water and Wastewater Impact Fee Study Update

- | | |
|--|-----------|
| • Task 1 – Project Initiation and Management | \$ 11,400 |
| • Task 2 – Land Use Assumptions | \$ 30,200 |
| • Task 3 – Water Impact Fee Update | \$ 52,100 |
| • Task 4 – Wastewater Impact Fee Update | \$ 49,000 |
| • Task 5 – Financial Analysis | \$ 18,800 |
| • Task 6 – Water and Wastewater Impact Fee Document and Adoption Process | \$ 33,100 |

Water and Wastewater Impact Fee Study Update: **\$ 194,600**

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

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



Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

Classification	Rate
Analyst	\$150 - \$230
Professional	\$200 - \$275
Senior Professional I	\$240 - \$330
Senior Professional II	\$295 - \$350
Senior Technical Support	\$150 - \$260
Support Staff	\$105 - \$135
Technical Support	\$95 - \$140

Effective through December 31, 2022

Subject to annual adjustment thereafter

Exhibit C

CITY OF DENTON INSURANCE REQUIREMENTS FOR CONTRACTORS

Bidder's attention is directed to the insurance requirements below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the contract. Upon bid award, all insurance requirements shall become contractual obligations, which the successful bidder 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 bid award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance, containing the bid 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 bid opening, since the insurance requirements may not be modified or waived after bid opening unless a written exception has been submitted with the 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- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the bid 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: City requires 30 day written notice should any of the policies described on the certificate be cancelled before the expiration date.***
- Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

[X] A. General Liability Insurance:

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

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

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.

- Coverage C, medical payments, is not required.

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

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

[X] Automobile Liability Insurance:

Contractor shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than \$500,000.00 either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

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

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

[X] Workers' Compensation Insurance

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

[] Owner's and Contractor's Protective Liability Insurance

The Contractor shall obtain, pay for and maintain at all times during the prosecution of the work under this contract, an Owner's and Contractor's Protective Liability insurance policy naming the City as insured for property damage and bodily injury which may arise in the prosecution of the work or Contractor's operations under this contract. Coverage shall be on an "occurrence" basis, and the policy shall be issued by the same insurance company

that carries the Contractor's liability insurance. Policy limits will be at least combined bodily injury and property damage per occurrence with a _____ aggregate.

☒ **Professional Liability Insurance**

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

☐ **Builders' Risk Insurance**

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

☐ **Commercial Crime**

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

☐ **Additional Insurance**

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

ATTACHMENT 1

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

A. Definitions:

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

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

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

- B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
 - 1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

- 2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
- 1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - 2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - 3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 4) obtain from each other person with whom it contracts, and provide to the contractor:
 - a) certificate of coverage, prior to the other person beginning work on the project; and
 - b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - 5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

- 7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

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.

Kimley-Horn and Associates, Inc.

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

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

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

N/A

Name of Officer

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

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

☐

Yes

☒

No

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

☐

Yes

☒

No

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

☐

Yes

☒

No

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

4 ☒ **I have no Conflict of Interest to disclose.****5** DocuSigned by:*Aaron Rader*

7/19/2022

Signature of Vendor doing business with the governmental entity_____
Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

(2) the vendor:

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

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

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

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

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

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: C28D68DD6A3F4E68A7F4AAE73796167E

Status: Sent

Subject: Please DocuSign: City Council Contract 7998

Source Envelope:

Document Pages: 35

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

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

erica.garcia@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

7/13/2022 11:07:44 AM

erica.garcia@cityofdenton.com

Signer Events**Signature****Timestamp**

Erica Garcia

Completed

Sent: 7/13/2022 11:14:59 AM

erica.garcia@cityofdenton.com

Viewed: 7/13/2022 11:15:09 AM

Buyer

Signed: 7/13/2022 11:18:24 AM

City of Denton

Using IP Address: 198.49.140.10

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**
Not Offered via DocuSign

Lori Hewell



Sent: 7/13/2022 11:18:29 AM

lori.hewell@cityofdenton.com

Viewed: 7/13/2022 11:19:28 AM

Purchasing Manager

Signed: 7/13/2022 11:19:58 AM

City of Denton

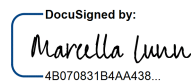
Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication
(None)

Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Marcella Lunn



Sent: 7/13/2022 11:20:02 AM

marcella.lunn@cityofdenton.com

Viewed: 7/13/2022 11:27:22 AM

Deputy City Attorney

Signed: 7/13/2022 11:27:46 AM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication
(None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Aaron Rader



Sent: 7/13/2022 11:27:49 AM

Aaron.Rader@Kimley-Horn.com

Resent: 7/15/2022 2:41:53 PM

Vice President

Resent: 7/19/2022 7:50:18 AM

Kimley-Horn and Associates, Inc.

Viewed: 7/19/2022 12:35:17 PM

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Signed: 7/19/2022 2:56:20 PM

Using IP Address: 64.158.94.58

Electronic Record and Signature Disclosure:

Accepted: 7/19/2022 12:35:17 PM

ID: e73d1dbc-90b9-4460-9ff5-8121752df200

Signer Events	Signature	Timestamp
Cassandra Ogden Cassandra.Ogden@cityofdenton.com Chief Financial Officer City of Denton Security Level: Email, Account Authentication (None)	DocuSigned by:  E7FF20C194EA4F9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/19/2022 2:56:24 PM Viewed: 7/19/2022 3:11:35 PM Signed: 7/19/2022 3:12:57 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Cheyenne Defee
cheyenney.defee@cityofdenton.com
Procurement Administration Supervisor
City of Denton
Security Level: Email, Account Authentication (None)

Sent: 7/19/2022 3:13:01 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sara Hensley
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Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
Accepted: 7/19/2022 11:22:10 AM
ID: 9bc833e5-e3b9-490a-8a64-35e8d3dcfd76

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
cheyenney.defee@cityofdenton.com
Procurement Administration Supervisor
City of Denton
Security Level: Email, Account Authentication (None)

COPIED

Sent: 7/13/2022 11:18:29 AM

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)

COPIED

Sent: 7/19/2022 3:13:01 PM
Viewed: 7/19/2022 3:13:30 PM

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

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Required hardware and software

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

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

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

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