

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

THIRD AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND CLARION ASSOCIATES
FILE NO. 5053

THIS THIRD AMENDMENT TO CONTRACT 5053 (“Amendment”) by and between the City of Denton, Texas (“City”) and Clarion Associates (“Contractor”);

WHEREAS, the original Agreement provided for Clarion Associates services related to the Denton Development Code Rewrite as is contained in Contract # 5053 (on file in the Purchasing Office). The initial agreement for the Basic Services – (Exhibit A), was approved on September 11, 2012, in the not-to-exceed amount of \$150,000 via Ordinance No. 2012-215. This was subsequently amended to lower the total not-to-exceed amount to \$99,877.35 due to a request by the City of Denton to withhold completion of Phase 3, and Task 2.3 of the original agreement, which was approved administratively; and

WHEREAS, the First Amendment increased scope of services to provide an additional not-to-exceed amount of \$190,230, for an aggregate of \$290,107.35 and was approved administratively; and

WHEREAS, the Second Amendment again modified the scope of services to provide an additional \$32,300.00 with a revised not-to-exceed total of \$322,407.35; and

WHEREAS, the City Council finds that it is necessary to further expand the goods/services provided by CONTRACTOR to the CITY and therefore desires to approve this Ordinance to authorize a further increase in fees of \$93,380 with a revised not-to-exceed total of \$415,787.35;

NOW THEREFORE,

- Article IV “Compensation”, Section B “Billing and Payment shall be amended to read:

For and in consideration of the professional services and related expenses to be performed by the CONSULTANT herein, the OWNER agrees to pay CONSULTANT based upon the rates set forth in Exhibit "B" which is attached hereto and incorporated by reference herewith; a total fee, not-to-exceed \$415,787.35.

Partial payments to the CONSULTANT will be made on the basis of detailed monthly statements rendered to and approved by the OWNER through its Assistant City Manager of Utilities (hereafter the "ACMU") 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 ACMU, or which is not submitted to the OWNER 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 fee as stated hereinabove.

- Exhibit A, Section 2 “Administration and Procedures “Task 2.1.A Draft New DDC”, is modified to include Attachment 1. The modification is in the amount of \$93,380 with a revised not-to-exceed total of \$415,787.35.

All other provisions of the contract 5053, as heretofore amended, remain in full force and effect.

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

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____
TODD HILEMAN
CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

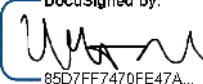
By: _____

“CONTRACTOR”

CLARION ASSOCIATES

A Corporation

By: _____

DocuSigned by:

85D7FF7470FE47A...

AUTHORIZED SIGNATURE, TITLE

**Clarion Associates**

303.830.2890

621 17th Street, Suite 2250

Denver, CO 80293

www.clarionassociates.com**MEMORANDUM**

TO: Scott McDonald, City of Denton
FROM: Matt Goebel and Tareq Wafaie, Clarion Associates
DATE: November 2, 2017
RE: DDC 2030 – revised scope of work (with budget estimate)

Clarion Associates met with Denton's DDC 2030 project management team on September 28, 2017. During that meeting, and following subsequent phone conversations, it became evident that a change in direction on several aspects of the DDC 2030 project is necessary. This memorandum summarizes a proposed amendment to the project scope of work to include additional drafts of a new DDC and adjustments to the public outreach strategy, including additional documentation of feedback from stakeholders.

Project History (Where We've Been)

Clarion was hired in 2012 to prepare a limited assessment of the DDC and make targeted updates. The project included reorganizing and reformatting the DDC to make it easier to read and use, plus substantive edits in specific areas: primarily removal of barriers to infill and redevelopment and streamlining the review procedures. Clarion produced several documents under the original scope of work:

- 2013 Assessment Report
- Draft reorganization/reformat of the DDC
- Draft update to Subchapter 2: Administration

The Assessment Report was presented at meetings in Denton with the City Council and other groups. With the exception of the Assessment Report, Clarion did not receive substantive feedback on the other draft deliverables. There were unsuccessful attempts to communicate with the city's project manager on review status, next steps, and overall project schedule.

In 2016, after a hiatus during which the Denton Plan was adopted and city personnel changed, the city determined that a more comprehensive update to the DDC was necessary, instead of the targeted updates anticipated under the original SOW. An amended contract was executed authorizing Clarion to draft a broader range of substantive updates to the code to implement the Denton Plan and address other issues. The drafting work was divided into three modules: 1) Administration/Procedures (building off the preliminary work done under the initial contract); 2) Districts/Uses; and 3) Development Standards.



Memo, DDC 2030 revised SOW, McDonald, p. 2

In that November 2016 contract amendment, city staff was scoped to lead updates to the Administration and Procedures subchapters with minimal involvement from Clarion, while Clarion took the lead on Districts/Uses and Development Standards. In early 2017, city staff initiated a second amendment authorizing Clarion to take the lead on updates to the Administration and Procedures, as well.

Since that time, Clarion has completed or is in the process of working on the following tasks:

- Two memos proposing approach to updates for the Districts and Uses, and the Development Standards (since these issues were not covered in the 2013 Assessment Report)
- Staff and public drafts of the Districts and Uses subchapters
- A staff draft of the Administration and Procedures subchapters
- Partial public draft of the Administration and Procedures subchapters (based on comments delivered to Clarion on September 8, 2017)
- Public open house – Districts and Uses: June 2017
- Development Standards stakeholder outreach meetings: August 2017
- Public open house – Districts and Uses with preview of Administration and Procedures and Development Standards: September 2017
- Development Standards – internal drafting of this module has begun but has not been delivered to the city: October 2017

New Direction (Where We're Headed)

Clarion's understanding following a meeting with staff on September 28 and subsequent phone conversations is that a more substantive rewrite of the DDC is required, with the primary focus being to prepare a streamlined DDC that meets minimum statutory requirements (with less deference paid to earlier drafts of the DDC). Secondary focus areas are a streamlined review process and best practices for development standards. In addition, the new code should carry forward the draft zoning districts already prepared and introduced to the public, since these have been prepared based on the new Denton Plan and are important tools for implementing that plan.

Additionally, the city wishes to adjust the public outreach strategy for the DDC 2030 project to solicit additional public feedback and identify additional stakeholder groups. This revised approach will demonstrate the city's commitment to be more transparent and to effectively communicate with the public on DDC 2030 matters.

Although this new approach may seem to be a step back in terms of overall progress on updating the DDC, this revised approach to preparing a new code will allow Clarion and new City leadership to take a fresh look at the project based on new guidance from community stakeholders and new City policy direction.

The following section describes specific work tasks to accomplish this new project direction. These would be additional tasks and structured as amendments to the existing Clarion contract.

Proposed Scope of Work (How We'll Get There)

Additional Task 1: Prepare Assessment Memorandum

Clarion will prepare a new Assessment Memo to supplement the prior 2013 report. While the earlier 2013 version was targeted and addressed just a handful of issues, the brief memo (10-12 pages) will document recent stakeholder feedback and place particular emphasis on the city's review procedures and development quality standards (such as landscaping, parking, and building design), which were

Memo, DDC 2030 revised SOW, McDonald, p. 3

either not addressed or covered in a limited manner in the 2013 report. The goal will be to lay the groundwork for a new code that primarily meets minimum statutory requirements.

Prior to drafting this new Assessment Memo, Clarion will facilitate an additional round of in-person interviews with both internal and external Denton stakeholders (scheduled for November 13-15). These meetings will be arranged and organized by Denton staff.

The Assessment Memo will identify and/or confirm key policy issues to address through the DDC update, and will build a new foundation for the DDC update compared to the 2013 Assessment. The Assessment Memo will be drafted in two stages: an initial staff draft that will be reviewed by a core staff team, and then, following one round of consolidated staff comments, a public draft that will be distributed to the public. The Assessment Memo will be presented to the public concurrently with the updates to the administration and procedures in Task 2, below.

Additional Task 2: Draft Updates to the Denton Development Code

Based on the new Assessment Report, Clarion will prepare two additional modules of draft updates to the DDC: 1) Administration and Procedures, and 2) Development Standards. For each of these modules, Clarion will prepare an initial staff draft for review by an internal core team. Following one round of consolidated written comments, Clarion will edit the materials and prepare a revised “public draft” for distribution and community discussion.

- **Administration and Procedures.** The existing Clarion scope called for development of a new Administration module (Task 2.1.A), and that was prepared and submitted to staff (both staff and public drafts). However, following recent staff changes in the fall of 2017, the City now contemplates a complete rewrite of this section of the DDC and will not carry forward the draft already prepared by Clarion. The focus of the new versions will be on ensuring compliance with minimum statutory requirements as well as implementing any internal process improvements being developed by new City leadership. (While the draft “Developer’s Handbook” prepared by prior staff was an important foundation for earlier drafts, it may no longer represent the city’s planned direction for revising procedures.)

We understand that the City is working simultaneously on revising internal processes (e.g., interdepartmental coordination, tracking of project records, and referral comments). While these internal efforts will be led by City staff, it will be important to coordinate them with Clarion’s drafting work to ensure the new DDC adequately reflects the City’s new processes. (For example, if the City substantially revises the site plan review procedures those changes may need to be codified in the new DDC.)

- **Development Standards.** This is another module addressed in the existing Clarion contract, and one for which Clarion has already completed substantial work (Task 2.1.C). The staff draft contemplated in the original contract is partially completed.

As with the Administration and Procedures module, Clarion will now start fresh with a new draft Development Standards module, based on the direction to be established in the new Assessment Memo. Additional feedback on these issues will be sought from both staff and other stakeholders in the new stakeholder meetings. Our August 2017 meetings (especially with other city departments) showed that there is significant work to be done coordinating the DDC update with the work of other departments, particularly regarding the updates of the various criteria manuals. The new Assessment Memo should identify issues related to this topic that should be addressed in the new DDC.

Memo, DDC 2030 revised SOW, McDonald, p. 4

The third module of the new DDC deals with **Districts and Uses**. That draft module has already been prepared and presented to the community and we do not recommend any changes to that material in this updated project approach. That Districts and Uses module should be carried forward (with any additional comments from City officials or the public) and integrated into the new draft DDC. If substantial additional edits to the Districts and Uses are anticipated based on either public or staff input, then that information should be conveyed in the Assessment Memo.

Additional Task 3: Meetings with Focus Groups, Advisory Group, and Other Stakeholders

Adjusting the public outreach strategy for the DDC 2030 project will allow the city to build support for the code update based on a foundation of transparency and trust. Following conversations with new City leaders, Clarion proposes additional meetings as part of the project “restart.” Beginning with additional stakeholder interviews, Clarion will work with staff to develop an outreach plan that provides multiple creative options for obtaining and responding to stakeholder feedback. This could include a new dedicated advisory committee that provides feedback on all parts of the new code, or new topic-specific focus groups that provide feedback on targeted parts of the code, or both. We understand that work is underway to assemble stakeholder groups, which may extend beyond the DDC to include dialogue on development services in general. The draft budget accompanying this memo sets aside additional hours to be devoted specifically to this task on a per-trip basis.

Following these additional tasks, the remainder of the DDC 2030 project would continue as outlined in the original SOW, as revised by subsequent amendments.

Budget for New Tasks

The following table summarizes additional budget for the tasks described above. In Additional Task 2, the budget accounts for a complete rewrite of the Administration/Procedures module, not a rework of the existing draft. The revised budget includes a minimum of four additional two-person trips. Note that the Additional Task 3 is a per-trip cost; only one is included in this budget, but additional trips would be at the same rate.

Memo, DDC 2030 revised SOW, McDonald, p. 5

City of Denton, Texas - Denton Development Code (DDC) Rewrite - New Tasks November 2017					
	Clarion Associates				
	Director (Goebel)	Sr Assoc (Wafaie)	Associates	Graphics	TOTAL
Hourly Rate	\$200	\$95	\$85	\$65	
Additional Task 1: Prepare New Assessment Memorandum					
1.1 Additional round of in-person interviews (three-day/two-night trip)	32	24	32	0	\$11,400
1.2 Staff draft new Assessment Memo	8	16	20	0	\$4,820
1.3 Public draft new Assessment Memo	6	6	10	0	\$2,620
Hours	46	46	62	0	154
Labor Costs	\$9,200	\$4,370	\$5,270	\$0	\$18,840
Expenses	\$2,000	\$1,000	\$800	\$0	\$3,800
Task Total					\$22,640
Additional Task 2: Draft Updates to Denton Development Code					
2.1 Staff draft Admin/Procedures	20	40	60	0	\$12,900
2.2 Public draft Admin/Procedures	10	10	30	10	\$6,150
2.3 Presentations of draft Admin/Procedures	20	20	20	0	\$7,600
2.4 Staff draft Development Standards	28	40	80	40	\$18,800
2.5 Public draft Development Standards	10	10	36	16	\$7,050
2.6 Presentations of draft Development Standards	20	20	20	0	\$7,600
Hours	108	140	246	66	560
Labor Costs	\$21,600	\$13,300	\$20,910	\$4,290	\$60,100
Expenses	\$1,000	\$800	\$800	\$0	\$2,600
Task Total					\$62,700
Additional Task 3: Meetings with Focus Groups, Advisory Groups, and Other Stakeholders (cost is per trip)					
3.1 Additional meetings (focus groups, advisory groups, other) (per two-day/one-night trip)	20	20	4	0	\$6,240
Hours	20	20	4	0	44
Labor Costs	\$4,000	\$1,900	\$340	\$0	\$6,240
Expenses	\$1,000	\$800	\$0	\$0	\$1,800
Task Total					\$8,040
TOTAL					\$93,380

Memo, DDC 2030 revised SOW, McDonald, p. 6

Project Schedule

We understand the city's desire to accelerate this project for adoption prior to the next construction season (Spring 2018). Below is a draft schedule showing how an early spring adoption would require an aggressive drafting timeline.

	Nov	Dec	Jan	Feb	Mar	Apr
Additional Task 1: Prepare New Assessment Memo						
1.1 Additional round of in-person interviews (three-day/two-night trip)						
1.2 Staff draft new Assessment Memo						
1.3 Public draft new Assessment Memo						
Additional Task 2: Draft Updates to DDC						
2.1 Staff draft Admin/Procedures						
2.2 Public draft Admin/Procedures						
2.3 Presentations of draft Admin/Procedures						
2.4 Staff draft Development Standards						
2.5 Public draft Development Standards						
2.6 Presentations of draft Development Standards						
Consolidated Draft DDC (Original Task 2.3)						
Staff Draft						
Public Draft						
Adoption (Original Task 3)						
Executive summary; final drafts; public hearings pursuant to original SOW						

Certificate Of Completion

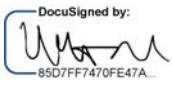
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Certificate Pages: 6	Initials: 0
AutoNav: Enabled	Envelope Originator:
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Time Zone: (UTC-08:00) Pacific Time (US & Canada)	jody.word@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

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Signer Events

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City of Denton	
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Matt Goebel, AICP	
mgoebel@clarionassociates.com	
Director	
Security Level: Email, Account Authentication (Optional)	
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	Signed using mobile

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Jennifer DeCurtis	Sent: 11/3/2017 12:52:06 PM
jennifer.decurtis@cityofdenton.com	
Deputy City Attorney	
City of Denton	
Security Level: Email, Account Authentication (Optional)	
Electronic Record and Signature Disclosure:	
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Julia Winkley
 julia.winkley@cityofdenton.com
 Security Level: Email, Account Authentication (Optional)
Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Todd Hileman
 Todd.Hileman@cityofdenton.com
 Security Level: Email, Account Authentication (Optional)
Electronic Record and Signature Disclosure:
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<p>Jennifer Walters</p> <p>jennifer.walters@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
<p>Sherri Thurman</p> <p>sherri.thurman@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 11/3/2017 12:52:04 PM
<p>Julia Winkley</p> <p>julia.winkley@cityofdenton.com</p> <p>Contracts Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	<p>Sent: 11/3/2017 12:52:04 PM</p> <p>Viewed: 11/3/2017 1:06:28 PM</p>
<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Robin Fox</p> <p>Robin.fox@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Jennifer Bridges</p> <p>jennifer.bridges@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		

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Scott McDonald scott.mcdonald@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Karen Smith
Karen.Smith@cityofdenton.com
Security Level: Email, Account Authentication (Optional)
Electronic Record and Signature Disclosure:
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Notary Events	Signature	Timestamp
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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

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

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

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

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

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

To withdraw your consent with City of Denton

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

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

Required hardware and software

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

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

Acknowledging your access and consent to receive materials electronically

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

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

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- 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.