



# City of Denton

City Hall  
215 E. McKinney Street  
Denton, Texas  
[www.cityofdenton.com](http://www.cityofdenton.com)

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## AGENDA INFORMATION SHEET

**DEPARTMENT:** Legal

**CM/ DCM/ ACM:** Jerry Drake, First Assistant City Attorney

**DATE:** November 14, 2017

### **SUBJECT**

Consider an ordinance authorizing the engagement of the law firm of Lynn, Ross and Gannaway, LLP, and the BKD, LLP accounting firm, to complete a previously initiated audit and investigation, pursuant to the terms of the attached contract for professional services; and further authorizing the expenditure of budgeted funds for the engagement, in an amount not to exceed \$50,000, without subsequent amendment of the approved contract; and providing an effective date.

### **BACKGROUND**

As stated in the recitals of the ordinance, this ordinance authorized professional services to complete an audit and investigation that had already been initiated by the City's Internal Auditor, prior to his departure from the City.

As a matter of law, professional legal, accounting, and auditing services are exempted from statutory requirements of bidding and procurement by the Texas Professional Services Procurement Act, and well-established case precedent interpreting that act.

With due deference to the language and intent of Denton's Charter section 6.04, which contemplates that the services of the internal auditor be provided directly to the City Council, rather than through management and staff, the report of this completed audit and investigation will be provided directly to the City Council.

### **OPTIONS**

1. Approve the ordinance and engagement;
2. Approve the ordinance and engagement with changes;
3. Decline to approve the ordinance and engagement at this time, and provide further direction for the completion of the previously initiated audit and investigation.

### **RECOMMENDATION**

The City Attorney's Office has reviewed the ordinance and engagement as to form, and confirms that the ordinance and engagement are legal, and within the City Council's authority to approve.

### **ESTIMATED SCHEDULE OF PROJECT**

The professionals named in the proposed engagement have tentatively expressed optimism that the engagement and report will both be completed well before the end of the calendar year. Much of the data

and evidence gathering in support of the audit and investigation from City sources had been completed by the Internal Auditor prior to his departure.

**PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

None.

**FISCAL INFORMATION**

The engagement for fees is limited to not exceed \$50,000 without further amendment and approval.

**BID INFORMATION**

Professional services, including legal, accounting, and auditing functions are exempted from bidding by the Professional Services Procurement Act, Tex. Gov't Code §2254.001, et seq., and well established case precedent, as a matter of law.

**STRATEGIC PLAN RELATIONSHIP**

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area:    Organizational Excellence**

**Related Goal:                    1.1 Manage financial resources in a responsible manner**

**EXHIBITS**

1.     Ordinance

Respectfully submitted:

/s/ Jerry E. Drake, Jr., First Assistant City Attorney

Prepared by:  
Toni Reedy, Legal Secretary