



City of Denton

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

Meeting Agenda Public Utilities Board

Monday, January 23, 2023

9:00 AM

Council Work Session Room

REGISTRATION GUIDELINES FOR ADDRESSING THE PUBLIC UTILITIES BOARD

Citizens will also be able to participate in the following way (NOTE: Other than public hearings, citizens are only able to comment one time per agenda item; citizens cannot use both methods to comment on a single agenda item. Public comments are not held for work session reports.):

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

After determining that a quorum is present, the Public Utilities Board of the City of Denton, Texas will convene in a Regular Meeting on Monday, January 23, 2023, at 9:00 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

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

2. CONSENT AGENDA

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

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

- A. [PUB22-221](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a Professional Services Agreement between the City of Denton and Hazen and Sawyer, P.C., amending the contract approved by City Council on July 21, 2015, in the not-to-exceed amount of \$427,368.00; amended by Amendments 1-5 approved by City Council; said sixth amendment to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station project; providing for the expenditure of funds therefor; and providing an effective date (File 5768 - providing for an additional sixth amendment expenditure amount not-to-exceed \$164,300.00, with the total contract amount not-to-exceed \$1,578,006.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Original Ordinance, Contract, and Amendments](#)
 [Exhibit 3 - Ordinance and Amendment 6](#)

- B. [PUB23-011](#) Consider recommending adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$300,000,000 in principal amount of "City of Denton Utility System Revenue Refunding Bonds, Series 2023"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date.

Attachments: [Exhibit 1 Agenda Information Sheet](#)
 [Exhibit 2 Ordinance](#)

- C. [PUB23-014](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive bids under IFB 8094 for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project; and providing an effective date (IFB 8094).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Ordinance](#)

- D. [PUB23-015](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Professional Services Agreement between the City of Denton and Solutient GeoSciences, Inc., amending the contract approved by the City Council on January 28, 2020, in the not-to-exceed amount of \$321,415.00; said first amendment to continue to provide hydrogeological and analytical services regarding the City's Landfill monitoring and reporting requirements; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7109-005 - providing for an additional first amendment expenditure amount not-to-exceed \$116,202.00, with the total contract amount not-to-exceed \$437,617.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Original Ordinance and Contract](#)
 [Exhibit 3 - Ordinance and Amendment 1](#)

- E. [PUB23-016](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, ratifying the expenditure of funds by the City Manager for the emergency purchase of rebuilt electric utility transformers for Denton Municipal Electric; and providing an effective date (File 8182 - awarded to Midwest Electric Transformer Services, Inc., in the not-to-exceed amount of \$535,018.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Declaration of Emergency](#)
 [Exhibit 3 - Ordinance](#)

- F. [PUB23-020](#) Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Romco Equipment Co., LLC, an authorized dealer for Volvo Construction Equipment North America, LLC, through the Sourcewell Cooperative Purchasing Network Contract Number 032119-VCE, for the purchase of one (1) Volvo L180H Wheel Loader for the Beneficial Reuse Department; authorizing the expenditure of funds therefor; and providing an effective date (File 8185 - awarded to Romco Equipment Co., LLC, in the not-to-exceed amount of \$491,511.00).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Quote](#)
 [Exhibit 3 - LLC Members](#)
 [Exhibit 4 - Ordinance](#)

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [PUB23-021](#) Consider approval of the January 9, 2023 minutes.

Attachments: [1.9.23 PUB Minutes](#)

- B. [PUB23-022](#) Management Reports
 1. Electric Denton Energy Center September 2022 Dashboard
 2. Future Agenda Items
 3. New Business Action Items

Attachments: [1. Electric DEC September 2022 with Informal Staff Report](#)
 [2. Future Agenda Items](#)
 [3. New Business Action Items](#)

4. CONCLUDING ITEMS

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

Following the completion of the Regular Meeting, the Public Utilities Board will convene in a Work Session at which the following items will be considered:

WORK SESSION

- A. [PUB23-019](#) Receive a report, hold a discussion, and give direction regarding the Electric FY 2022-23 Budget and Rates.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Presentation](#)

- B. [PUB23-010](#) Receive a presentation, hold a discussion, and give staff direction regarding proposed updates to the GreenSense Incentives Program and rates related to distributed generation from renewable sources interconnected within Denton Municipal Electric service territory.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Presentation](#)
[Exhibit 3 - Solar Program ISR](#)

Following the completion of the Work Session, the Public Utilities Board (PUB) will convene in a Closed Meeting to consider specific items when these items are listed below under the Closed Meeting section of this agenda. The Public Utilities Board (PUB) reserves the right to adjourn into a Closed Meeting on any item on its Open Meeting agenda consistent with Chapter 551 of the Texas Government Code, as amended, or as otherwise allowed by law.

CLOSED MEETING

Any final action, decision, or vote on a matter deliberated in a Closed Meeting will only be taken in an Open Meeting that is held in compliance with Texas Government Code, Chapter 551, except to the extent such final action, decision, or vote is taken in the Closed Meeting in accordance with the provisions of Section 551.086 of the Texas Government Code (The 'Public Power Exception'). The Public Utilities Board reserves the right to adjourn into a Closed Meeting or Executive Session as authorized by Texas Government Code, Section 551.001, et seq. (The Texas Open Meetings Act) on any item on its Open Meeting agenda or to reconvene in a continuation of the Closed Meeting on the Closed Meeting items noted above, in accordance with the Texas Open Meetings Act, including, without limitation Section 551.071-551.086 of the Texas Open Meetings Act.

- A. [PUB23-017](#) Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff regarding financial matters regarding transmission cost of service (TCOS); discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorneys regarding legal issues associated the above matter where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under Texas Disciplinary Rules of Professional Conduct of State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

- B. [PUB23-018](#) Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff regarding financial matters regarding the data center (Core Scientific); discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorneys regarding legal issues associated the above matter where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under Texas Disciplinary Rules of Professional Conduct of State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

CERTIFICATE

I certify that the above notice of meeting was posted on the official website (<https://tx-denton.civicplus.com/242/Public-Meetings-Agendas>) and bulletin board at City Hall, 215 E. McKinney Street, Denton, Texas, on January 19, 2023, in advance of the 72-hour posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

CITY SECRETARY

NOTE: THE CITY OF DENTON'S DESIGNATED PUBLIC MEETING FACILITIES ARE ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE ACCOMMODATION, SUCH AS SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED, IF REQUESTED AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY SECRETARY'S OFFICE AT 940-349-8309 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT REASONABLE ACCOMMODATION CAN BE ARRANGED.



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Legislation Text

File #: PUB22-221, Version: 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a Professional Services Agreement between the City of Denton and Hazen and Sawyer, P.C., amending the contract approved by City Council on July 21, 2015, in the not-to-exceed amount of \$427,368.00; amended by Amendments 1-5 approved by City Council; said sixth amendment to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station project; providing for the expenditure of funds therefor; and providing an effective date (File 5768 - providing for an additional sixth amendment expenditure amount not-to-exceed \$164,300.00, with the total contract amount not-to-exceed \$1,578,006.00).



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AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
INTERIM ACM: Cassey Ogden
DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a sixth amendment to a Professional Services Agreement between the City of Denton and Hazen and Sawyer, P.C., amending the contract approved by City Council on July 21, 2015, in the not-to-exceed amount of \$427,368.00; amended by Amendments 1-5 approved by City Council; said sixth amendment to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station project; providing for the expenditure of funds therefor; and providing an effective date (File 5768 – providing for an additional sixth amendment expenditure amount not-to-exceed \$164,300.00, with the total contract amount not-to-exceed \$1,578,006.00).

INFORMATION/BACKGROUND

The City Council authorized the contract with Hazen and Sawyer, P.C. (Hazen) on July 21, 2015, for the preliminary and final engineering design of the Hickory Creek Detention Facility project (HCDF) which included concrete storage basins and a peak flow pump station to store peak wet weather flows, and then discharge back into the Hickory Creek Interceptor when the flows subside. The first amendment added additional work for the design of the Pecan Creek West Peak Flow Pump Station (PCWPFPS), which has similar design concepts as HCDF. The design of the new Hickory Creek Lift Station (HCLS) and additional pier foundation for HCDF were included in the second amendment. The third amendment added construction administration services for HCLS and HCDF/PCWPFPS. The City of Denton and Kansas City Southern permitting requirements were addressed with assistance from Hazen and Sawyer in amendment number four. The fifth amendment added construction administration services to assist in the new Hickory Creek Lift Station project closeout.

The proposed sixth amendment is for professional design and construction phase services to address constraints at the Hickory Creek Detention Facility Construction (HCDF) and Pecan Creek West Peak Flow Pump Station (PCWPFPS) project.

The amendment includes:

1. Redesign of the odor control foundation and electrical pad, due to excavation methods and to prevent possible settlement issues at HCDF.
2. Evaluation of risks due to a 42" FRP pipe offset at HCDF.
3. Design of a retaining wall to eliminate adding additional backfill in the current flood plain, at PCWPFPS.

4. This amendment allows for additional construction meetings at the request of the City and a review of additional shop drawings.

There are no other amendments anticipated to the contract. Completion of the projects and close out of the contract are expected to be in the first quarter of 2023.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On July 21, 2015, City Council approved a contract with Hazen and Sawyer, P.C., in the not-to-exceed amount of \$427,368 (Ordinance 2015-205).

On April 5, 2016, City Council approved Amendment No. 1 with Hazen and Sawyer, P.C. in the not-to-exceed amount of \$112,758 (Ordinance 2016-098).

On February 7, 2017, City Council approved Amendment No. 2 with Hazen and Sawyer, P.C. in the not-to-exceed amount of \$192,239 (Ordinance 2017-034).

On August 13, 2019, City Council approved Amendment No. 3 with Hazen and Sawyer, P.C. in the not-to-exceed amount of \$470,449 (Ordinance 19-1839).

On January 12, 2021, City Council approved Amendment No. 4 with Hazen and Sawyer, P.C. in the not-to-exceed amount of \$144,150 (Ordinance 21-015).

On May 18, 2021, City Council approved Amendment No. 5 with Hazen and Sawyer, P.C. in the not-to-exceed amount of \$66,742 (Ordinance 21-015).

RECOMMENDATION

Award Amendment No. 6 with Hazen and Sawyer, P.C., to provide additional engineering services and permitting support for the Hickory Creek Detention Facility and the Hickory Creek Lift Station project, in the not-to-exceed amount of \$164,300, for a total amended contract amount of \$1,578,006.

PRINCIPAL PLACE OF BUSINESS

Hazen and Sawyer, P.C.
Dallas, TX

ESTIMATED SCHEDULE OF PROJECT

Completion of the projects is expected to be in the first quarter of 2023.

FISCAL INFORMATION

These services will be funded from Hickory Creek Detention Facility account 640163545. A requisition will be entered as needed.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance, Contract, and Amendments
Exhibit 3: Ordinance and Amendment 6

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

For information concerning this acquisition, contact: David Brown, 940-349-8480.

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

ORDINANCE NO. 2015-205

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE HICKORY CREEK BASIN PEAK FLOW DETENTION FACILITY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768-AWARDED TO HAZEN AND SAWYER, P.C. IN AN AMOUNT NOT-TO-EXCEED \$427,368).

WHEREAS, the professional services provider (the "Provider") mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, 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 is hereby authorized to enter into a professional service contract with Hazen and Sawyer, P.C., to provide professional design services for the Hickory Creek Basin Peak Flow Detention Facility, a copy of which is attached hereto and incorporated by reference herein.

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

SECTION 3. The City Council of the City of Denton, Texas hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under File 5768 to the City Manager of the City of Denton, Texas, or his designee.

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

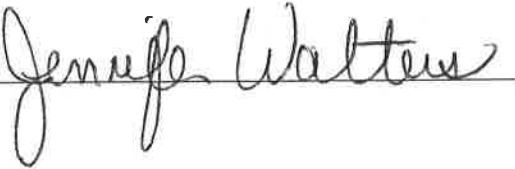
SECTION 5. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 21 day of July, 2015.


CHRIS WATTS, MAYOR

ATTEST:

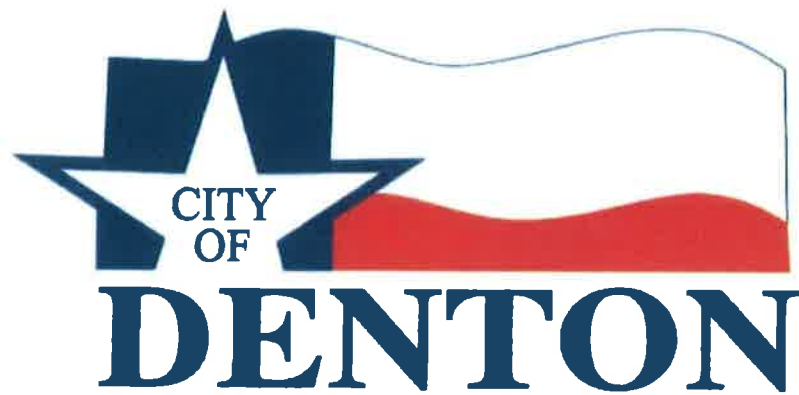
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:

ANITA BURGESS, CITY ATTORNEY

BY: 



City of Denton
Contract # 5768

Hickory Creek Peak Flow Detention Facility
Design Services

**PROFESSIONAL SERVICES AGREEMENT
FOR ARCHITECT OR ENGINEER**

THIS AGREEMENT is made and entered into on July 21, 2015, 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 Hazen and Sawyer, P.C., with its corporate office at 8350 North Central Expressway, Suite 775, Dallas, Texas 75206 hereinafter called "Design Professional," acting herein, by and through their duly authorized representatives.

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

SECTION 1
EMPLOYMENT OF DESIGN PROFESSIONAL

The Owner hereby contracts with the Design Professional, a licensed Texas architect or engineer, as an independent contractor. The Design Professional hereby agrees to perform the services as described herein and in the Proposal, the General Conditions, and other attachments to this Agreement that are referenced in Section 3, in connection with the Project. The Project shall include, without limitation, is generally identified as the design of the Hickory Creek Peak Flow Detention Facility (PFDF), and hereinafter called "Project". The peak flow detention facility will manage peak flows from the 5-year design storm event using 6 to 7-million gallons (MG) of storage along with a 24-million gallons per day (MGD) peak flow pump station to shave flows from the Hickory Creek Interceptor to the peak flow storage basins. The design effort includes the geotechnical investigations for foundation design, site plan for the proposed detention facility including the peak flow pump station and odor control system, SCADA system integration of the detention facility, drainage plan, conformance to City of Denton ESA requirements for installation of gravity sewer in the floodplain, conformance to Denton Development Code requirements as applicable, preparation of final plans and specifications for conducting the public procurement process for construction of the detention facility project, and construction management services as requested by the City.

Owner employs Engineer, and Engineer agrees to perform the professional services identified in the Scope of Services attached hereto as Exhibit "A" and incorporated herein.

- A. Engineer shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should Owner require additional services not included under this Agreement, Engineer shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by Owner; and without decreasing the effectiveness of the performance of services required under this Agreement.
- B. To the extent reasonably necessary for Engineer to perform the services under this Agreement, Engineer shall be authorized to engage the services of any agents, assistants, persons, or corporations that Engineer may deem proper to aid or assist in the

performance of the services under this Agreement with the prior written approval of Owner. The cost of such personnel and assistance shall be a reimbursable expense to Engineer only if authorized in writing in advance by Owner. In the absence of such authorization in writing, Engineer assumes all responsibility for the cost and performance of said personnel and assistance.

- C. Engineer shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all services set forth in the Scope of Services.

AFTER AWARD OF CONSTRUCTION CONTRACT BY OWNER, ENGINEER SHALL:

1. Meet with the Contractor and Owner's representatives in advance of project start to establish parameters for the prosecution of the project by each party.
2. Make periodic visits to the Project site and, when deemed appropriate by Engineer in the exercise of his professional judgment, to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the plans, specifications, and construction contract documents. Engineer will NOT:
 - (a) be required to make exhaustive or continuous on-site reviews to check the quality or quantity of the work;
 - (b) be responsible for having quality control testing done;
 - (c) be responsible for the techniques and sequences of construction;
 - (d) be responsible for the Contractor's failure to perform the construction work; or
 - (e) be responsible for job site safety,

Engineer will endeavor to guard Owner against defects and deficiencies in the work of the Contractors, and may disapprove work as failing to conform to the plans and specifications, and construction contract documents.

3. Check samples, catalog data, laboratory testing, shop drawings, mill tests of materials and equipment, and other data which the Contractor is required to submit, only for the conformance with the design concept of the Project and general compliance with the information given by the plans, specifications, and construction contract documents; and accept or reject all such submittal data furnished by the Contractor, materials used, and work performed by the Contractor as either substantially complying or not complying with the intent of the plans, specifications, and construction contract documents.
4. Consult and advise with Owner, act as Owner's representative at the Project site, issue all instructions of Owner to the construction contractors that do not conflict with good engineering practice, and prepare routine change orders as required.
5. Engineer will receive, review and recommend payment for all progress payments to contractors and vendors on the Project based on his on-site observations as an experienced and qualified design professional and on his review of the applications for payment, advise the Owner of any apparent discrepancies in the amount requested by the contractors or vendors.
6. Conduct, in company with Owner's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the plans, specifications, and construction contract documents, and recommend in writing final payment to the Contractor(s).

7. Furnish Owner, a set of record prints of drawings and addendum drawings showing those changes made during the construction period, based upon the marked up prints, drawings, and other data furnished by the Contractor to Engineer and which Engineer considers to be significant.

Additional Obligations provided by the OWNER

Owner shall furnish, at Owner's expense, all information, reports, data, surveys and instructions available to Owner and required by Engineer to perform this Agreement, including but not necessarily limited to the following:

A. All information concerning Owner's requirements for the Project;

1. Topographical and Boundary surveys
2. Texas Accessibility Standard Plan Review and Post-construction Inspection
3. Construction Observation and Materials Testing

B. All reasonably available information pertinent to the site of the Project including all previous reports, construction documents, and any other data relative to design or construction of the Project;

C. Owner's written decision, within a reasonable time, on matters presented to Owner by Engineer that require a decision from the Owner, so as not to delay work by the Engineer;

D. Any previous geotechnical reports on the Project site.

Engineer may use such information, requirements, reports, data, surveys and instructions in performing his services and is entitled to rely upon the accuracy and completeness thereof.

E. Owner shall make all necessary provisions for Engineer to lawfully enter upon city property as required for Engineer to perform his work under this Agreement. Owner shall obtain all easements, right-of-way, and fee simple lands required for the construction of the Project and bear all costs incident thereto including surveying, abstracting, easement preparation and appraisals.

F. If required, Owner shall provide advertisements to solicit bids or proposals on the Project, open the bids or proposals at the appointed time and place, and pay for all costs related to the bid/proposal process.

G. Owner shall designate in writing, a person to act as Owner's representative with respect to the work to be performed under this Agreement. The designated person shall have authority to transmit instructions, receive information, and define Owner's position regarding materials, equipment and systems pertaining to the Project and work to be performed under this Agreement.

H. If Owner becomes aware of any defect in the Project, then Owner shall promptly give the Engineer written notice of the defect.

I. Owner shall pay all fees imposed by local, State, or Federal regulatory agencies to review and approve of completed plans and specifications requiring regulatory approval.

SECTION 2 **COMPENSATION**

The Owner shall compensate the Design Professional as follows:

2.1 BASIC SERVICES

2.1.1 Progress payments for Basic Services shall be paid in the following percentages of the total compensation for the Basic Services satisfactorily completed at the end of the following Tasks of the Project:

Task 100 – Investigation and Preliminary Engineering Services

Subtask 101: Review Existing Information and Design Basis Confirmation **\$ 8,918**

ENGINEER will review information provided by the City related to the design of the Hickory Creek PFDF including, but not limited to:

- Property Boundary Survey
- Hickory Creek Interceptor Drawings
- Special Use Permit
- City of Denton InfoWorks Model Outputs for the Design Storm(s)
- Existing utility information including power supply, voltage, capacity, etc.
- Radio Communication Survey
- Relevant City of Denton Design Criteria Manuals and Development Code Requirements

ENGINEER will review existing information and confirm that the necessary background information is available to proceed with the design. The ENGINEER will use the existing City of Denton InfoWorks model outputs to confirm the design criteria with a more detailed design evaluation of varying storm events, storage sizes and pumping rates.

Scope Item Assumptions:

- Boundary survey electronic files, datum information, etc.
- Record drawing files will be provided in .PDF or .JPEG format
- City will provide InfoWorks model outputs required to define the basis of design. Engineer assumes no liability for City's InfoWorks model outputs.

Meetings:

- 1 hour in meeting with City InfoWorks modeler to obtain/ run necessary storm scenarios

Deliverables:

- Data request letter transmitted electronically in PDF format.

Estimated completion time: **October 31, 2015**

Subtask 102: Geotechnical Investigation

\$23,897

ENGINEER will perform a site specific geotechnical investigation including coordination with the geotechnical investigation sub-consultant, review and analysis of the geotechnical investigation report, and summary of design requirements.

Scope Item Assumptions:

- A total of four (4) borings for one storage tank
- A total of one (1) boring for the pump station facilities
- A total of four (4) borings for the gravity wastewater pipeline alignments
- A total of three (3) borings for the road paving; near the railroad for the asphalt road and two for the millings road to be constructed by the City.
- Tree clearing required for geotechnical investigation will be minimized and only performed for drill equipment access. Clearing debris will be left on site for City to process/dispose. City will be notified prior to any clearing.
- A written report will be provided summarizing the geotechnical findings with all the required information to the tank vendor for design of the proposed storage tank, including, but not limited to:
 - Foundation recommendations
 - Groundwater table conditions
 - Pipe trench bedding recommendations
 - Soil characteristics such as allowable bearing pressure, lateral earth pressure, subsurface soil profile, etc.
 - Seismic parameters
- All site activities will be coordinated with the City and in accordance with the City's agreements with adjacent property owners.

Meetings:

- None.

Deliverables:

- One electronic (.PDF format) and three (3) hard copies of the geotechnical investigation report.

*Estimated completion time: **October 31, 2015***

Subtask 103: Hydraulic Evaluation

\$28,092

ENGINEER will perform preliminary design calculations to determine optimum pipeline sizes, pump station location and confirm operation philosophies for filling and draining the storage tanks. Alternative pipeline alignments will be evaluated to minimize environmental impacts cost effectively and identify any permit or mitigation requirements for an alignment alternative.

Subtask activities will include:

- Evaluating two alignment options for the gravity wastewater pipelines to and from the Hickory Creek Interceptor to the project site.
- Performing hydraulic calculations required to optimize pipeline size, minimum slopes, capacity (16,700 gpm, 24 MGD), wet well size, etc.

- Developing a hydraulic profile for the selected alternative
- Confirm operational philosophies with constant speed pumps and develop hydraulic calculations. VFD analysis is not included as part of this evaluation.
- Evaluating tank draining operational philosophy and control method to align with Hickory Creek PS wet well level management
- Investigating compliance requirements with the Endangered Species Act (ESA) requirements in the undeveloped floodplain and 200-ft riparian barrier
- Investigating of US Army Corps of Engineers (USACE) design and permit requirements
- Develop an AACE Class 4 Preliminary Opinion of Probable Construction Cost for the evaluation of pipeline alignment alternatives and pump station sizing options evaluated.

Assumptions:

- City will provide control philosophy and operating data (flow, pump on/off frequency, level, etc.) of Hickory Creek LS in electronic form.
- City will provide hydraulic profile of interceptor line connecting the proposed facilities and Hickory Creek LS.

Meetings:

- One 1-hour evaluation review meeting to present alternatives evaluated and summarize the preliminary recommendations

Deliverables:

- A summary of the evaluation will be delivered as part of the Subtask 105 Basis of Design Technical Memorandum.

Estimated completion time: October 31, 2015

Subtask 104: Tank Cleaning Evaluation

\$ 9,314

ENGINEER will perform preliminary design calculations for the tank cleaning system requirements and methods for pump station cleaning. Alternative tank flushing water sources will be evaluated including rain water harvesting and potable water.

Assumptions:

- A nozzle based system will be designed. Wave flush technologies will not be evaluated as part of this project
- Flushing water source will be evaluated including rain water harvesting and potable water
- City will provide potable water supply pressure and flow information for the tie-in line at the Bent Creek Estates or the existing pipeline at Fort Worth Drive
- City will provide relevant design storm information and inches of rainfall to determine feasibility of rain water harvesting
- Develop a AACE Class 4 Preliminary Opinion of Probable Construction Cost for the evaluation of alternatives

Meetings:

- A 1-hour meeting; to present the findings of the evaluation and present a recommendation to the City.

Deliverables:

- A summary of the evaluation will be delivered as part of the Subtask 105 Basis of Design Technical Memorandum.

Estimated completion time: October 31, 2015

Subtask 105: Basis of Design Technical Memorandum

\$73,314

ENGINEER will perform a preliminary design of the siting and location of access roads, tanks, pump station, yard piping layout and all related appurtenances. Analysis will determine impacts to surrounding environmental resources such as encroachments to floodplain and stream buffer boundaries, as well as determine overall project footprint and the necessary regulatory permits required for environmental and construction compliance. In addition, a summary of each evaluation performed in previous tasks will be included as part of the technical memorandum to document the design decisions. The memorandum will include basis of design summaries for each discipline based on the preliminary design activities.

Subtask activities will include:

- Performing a code review to determine permit, easement and regulatory requirements that impact the facility for impacted disciplines
- Preparing discipline design basis summaries that are to include the following areas:
 - General – Hydraulic profile and process flow schematic
 - Civil – Site Work and Yard Piping
 - Investigation of site grading alternatives
 - Determination of total project footprint and impact for the performance of topographical survey
 - Compliance with TPDES General Permit for stormwater discharges during construction
 - Compliance with City of Denton Site Design and Drainage Design Criteria
 - Coordination with the Corp of Engineers on compliance requirements with the Endangered Species Act (ESA) requirements in the undeveloped floodplain and 200-ft riparian barrier
 - Determination of the water line alignment from the nearby Bent Creek Estates or Fort Worth Drive to the project site
 - Coordination with the railroad easement owner or the City of Denton Parks Department (for Fort Worth Drive pipeline option) to determine permit requirements
 - Determine Texas Department of Transportation permit requirements for site access road (driveway permits, Right-of-Way)
 - A preliminary site plan showing preliminary location of above grade facilities, pipeline alignments and road way access, power easement, etc.
 - A preliminary site grading and drainage plan showing revised site contours
 - List of anticipated required project permits
 - Structural

- Foundation type and subgrade requirements for major facilities based on results of the geotechnical investigation
 - Basic scope assumes a reconstructed subgrade with a concrete slab on grade. The detailed foundation design will be done by the storage tank manufacturer
 - Determination of viable tank manufacturers
- Mechanical
 - Basis of design for the design storm, storage volume, pumps, pump station wet well, pipelines, acceptable manufacturers and equipment preferences
 - Preliminary plan and section of major facilities
- Electrical and Instrumentation
 - Site electrical requirements including incoming service, power distribution, backup power requirements, materials of construction, and identification of equipment manufacturers
 - Electrical facilities will be designed with a portable emergency generator connection, which would allow for a standby generator to be installed in the future
 - Preliminary control philosophy
 - City's power supply delivery plan and scope summary
 - Preliminary site lighting plan
 - Bottom half of the P&ID
 - Electrical one line diagram(s)

Meetings:

- One, 2-hour meeting to review the draft technical memorandum and receive the City's review comments

Deliverables:

- One electronic (.PDF format) copy and five hard copies of the draft technical memorandum.
- One electronic (.PDF format) copy and five hard copies of the final technical memorandum.

Estimated completion time: October 31, 2015

Task 200: Detailed Design and Bid Phase Services

Subtask 201: 50-Percent Design

\$120,551

ENGINEER will perform the necessary design calculations, agency coordination, development of plans, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 50% level design detailed below.

Subtask activities will include:

- Preparing the 50% design drawings which will contain the following in general:
 - General Sheets

- Civil – existing plan (identifies horizontal and vertical control information, existing easements, flood plain, flood way, setbacks and buffers, existing facilities, roads, etc.), existing grading, proposed facility plan, proposed site grading plan, proposed site paving plan, proposed yard piping plan, gravity and force main plans and profiles, site erosion and sediment control plan, storm water control plan and standard details.
- Mechanical – facility plans and primary sections (storage tanks, pump station, odor control system, rain water harvesting system, etc.), and initial standard details
- Structural– general notes, facility plans and primary sections, and standard details
- Electrical – general notes, single line diagrams, proposed site plan, lighting plan, power plan, electrical equipment elevations and standard details
- Instrumentation – symbols and diagrams, piping and instrumentation diagrams, system block diagrams, and standard details
- Prepare 50% technical specifications for all disciplines
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 50% level design
- Obtain standard front-end documents from the City and begin coordination with overall project
- Conduct an internal milestone quality control review
- Perform a 50% internal constructability review
- Perform a 50% internal interdisciplinary coordination workshop
- Review the 50% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 50% design submittal review and City comment workshop

Deliverables:

- One electronic (.PDF format) copy and five hard copies of the 50% plans and specifications
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records

Estimated completion time: **April 30, 2016**

Subtask 202: 90-Percent Design

\$100,030

ENGINEER will perform necessary design calculations, agency coordination, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 90% level design detailed below.

Subtask activities will include

- Incorporating City's 50% comments.
- Preparing the 90% design drawings which comply with applicable Federal, State and local regulations and the City's Standards. All 50% drawings developed to a 90% design level. The content of the set in addition to 90% design includes:

- Civil– additional erosion control measures, staking data, landscaping and temporary irrigation plans (if necessary), contractor staging area, laydown areas, and other pertinent project specific details
 - Structural– facility sections, foundation schedules, special inspection requirements and project specific details
 - Mechanical – Develop additional mechanical design on 50% content to include, miscellaneous detail annotation, piping, valves, construction notes, sequence of work, elevations, etc. Additional plans and sections will be added as necessary to clarify design intent.
 - Electrical – duct bank schedules, grounding plans, riser diagrams, control one line diagrams, conduit and wire schedules and project specific details
 - Instrumentation – project specific details
- Prepare 90% technical specifications for all disciplines including bidding and contract requirements and existing infrastructure tie in requirements.
 - Prepare AACE Class 1 Opinion of Probable Construction Costs based on 90% level design
 - Coordinate front-end documents from the City
 - Conduct an internal milestone quality control review
 - Perform a 90% internal interdisciplinary coordination workshop
 - Review the 90% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 90% design submittal review workshop

Deliverables:

- One electronic (.PDF format) copy and five hard copies of the 90% plans and specifications
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records

Estimated completion time: April 30, 2016

Subtask 203: 100-Percent / Bid Set Design
\$28,063

ENGINEER will develop bid ready construction documents set including drawings, technical specifications and an AACE Class 1 Opinion of Probable Construction Cost estimate.

Subtask activities will include:

- Incorporating the City's 90% review comments.
- Preparing the bid ready design drawings using the 90% documents
- Prepare bid ready technical specifications for all disciplines including final bidding and contract requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on bid level design
- Finalize front-end documents with the City

Meetings:

- None.

Deliverables:

- One electronic (.PDF format) copy of full size and half size drawings
- One hard copy of half size drawings and technical specification. The hard copy set will be submitted unbound for easy reproduction by the City
- One electronic (.PDF format) copy of the action item log, and client review comment log and for the City's records

*Estimated completion time: **April 30, 2016***

Subtask 204: Bid Phase

\$ 22,676

The ENGINEER will provide bid phase services including attending the pre-bid meeting, answering contractor questions and inquiries through written addenda, reviewing the bid submissions and providing any additional recommendations required by the City.

Assumptions:

- The City will provide electronic and hard copy bid documents to all interested bidders
- The City will receive all questions and inquiries from contractors in writing and provide them to the ENGINEER for response.
- ENGINEER will keep record on questions and inquiries to be addressed from the pre-bid meeting
- ENGINEER will prepare all addenda and provide electronic copies for the City to issue to bidders
- ENGINEER will prepare the conformed documents after bid phase is completed.
- ENGINEER will not provide hard copy bid set drawings or specification to bidders
- ENGINEER will provide hard copy conformed set of half size and full size drawings and specifications to the City unbound for easy reproduction by the City

Meetings:

- One, 1-hour pre-bid meeting.

Deliverables:

- One electronic copy (.PDF format) of each addenda required to address bidder inquiries and questions
- One electronic copy (.PDF format) of meeting minutes from the pre-bid meeting for the City's records
- Conformed Drawings - one electronic copy (.PDF format), one full size hard copy, one half size hard copy and one hard copy of specifications; all unbound for reproduction

*Estimated completion time: **June 30, 2016***

Subtask 205: Design Phase Meetings

\$ 12,514

The ENGINEER will provide sixty-four (64) hours of design phase meeting services to the City of Denton, during the course of the design project.

*Estimated completion time: **June 30, 2016***

Additional Task A1: Foundation Design with Piles

(not included in fee)

Upon receipt and review of the site geotechnical investigation the ENGINEER will determine whether a pile foundation support system is required for the project. The pile foundation support system will also require the ENGINEER to provide a more detailed foundation system.

Additional subtask activities include:

- Design of foundation support piles
- Details for the foundation system
- Three (3) structural sheets for the pile plan and foundation section and details
- Coordination meeting with the contractor during construction prior to pile construction
- Pile and foundation submittal reviews
- Response to requests for information by the contractor specific to the pile plan and foundation details
- Site visit and inspection by the ENGINEER during the pile construction

Meetings:

- One, one (1) hour meeting with the contractor during construction to review pile construction
- One, two (2) hour site visit for installation inspection

Deliverables:

- Three (3) additional structural sheets as part of the design package

2.2 ADDITIONAL SERVICES

Engineer may furnish services in addition to the basic services listed in Exhibit A, if authorized in writing by Owner. Owner shall not be responsible for Engineering fees and costs for services in addition to the basic services listed in Exhibit A unless said additional services are pre-authorized in writing by Owner. Any requested Additional services shall be in accordance to the fee schedule detailed in Exhibit B, Engineer's Standard Hourly Rates.

Additional Services may include the following:

A. Material changes in the scope, size, complexity, or character of construction of the Project requested in writing by Owner. Material changes also include substantial changes to the project budget after the execution of design services has commenced, value engineering changes made necessary to bring the project cost within the budget allocated for the project; or enhancements desired by the owner;

B. Revisions, elected by Owner after giving previous approval of studies, reports, design documents, drawings or specifications. No additional fees shall be owed Engineer by Owner if the revision(s):

- 1) is required by regulating authorities or to bring the design into compliance with any applicable statute, code, or ordinance, if such requirement, statute, code or ordinance was in effect at the time of the performance of engineer's design services, or
- 2) is required as a result of Engineer's error or omission.

C. Furnishing of additional copies (beyond the basic construction contract sets) of reports and additional prints of drawings, specifications, and construction contract documents. Furnishing of reproducible mylars, films, sepias or other hard copy of the construction documents.

D. Investigations or reports involving details of operation, maintenance, and overhead expenses; or the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, and valuations; or detailed quantity surveys of material and labor; or material audits or inventories required for certification of construction work completed.

E. Additional or extended services during the construction made necessary by

- (1) work damaged by fire, flood, wind, vandalism, acts of God, or other cause by construction,
- (2) prolongation of the construction contract time by more than 25 percent through suspension of the work by the owner through no fault of the engineer,
- (3) acceleration of work schedules involving services beyond normal working hours,
- (4) construction contract default due to delinquency or insolvency of the construction contractor.

F. The preparation of instruction manuals or of operation and maintenance manuals beyond those furnished with fixtures and equipment incorporated into the Project as described in Exhibit "A".

G. Additional time and expense necessitated by out-of-town travel required of the Engineer other than visits to the Project site and consultation in Owner's office.

H. Time and expense when serving as expert witness or consulting with Owner regarding actual or potential litigation concerning the Project. Provided however, Owner shall not be responsible for the cost of Engineer's time or expenses incurred by Engineer if a claim has been made against Engineer or Engineer is a party to the litigation.

I. Services of a Resident Project Representation (RPR) during the construction phase of the Project. If requested in writing by Owner, one or more full-time RPR will be furnished and directed by Engineer in order to provide more extensive representation at the Project site during the construction phase. This paragraph, however, shall not restrict Owner from employing other persons for the purpose of full or part time inspection of the Project.

J. Preparation of boundary survey, plats, legal descriptions, or deeds; record search, abstracting of ownership or other related surveyor work.

2.3 REIMBURSABLE EXPENSES Reimbursable Expenses shall be a multiple of n/a times the expenses incurred by the Design Professional, the Design Professional's employees and consultants in the interest of the Project as defined in the General Conditions but not to exceed a total of \$0 without the prior written approval of the Owner.

SECTION 3
ENTIRE AGREEMENT

This Agreement includes this executed agreement and the following documents all of which are attached hereto and made a part hereof by reference as if fully set forth herein:

1. City of Denton General Conditions to Agreement for Architectural or Engineering Services.
2. Exhibit A – The Design Professional's Scope of Services
3. Exhibit B – The Design Professional's Hourly Rate Sheet for Additional Services
4. Exhibit C – The Design Professional's Contract Documentation

This Agreement is signed by the parties hereto effective as of the date first above written.

CITY OF DENTON

BY: 

GEORGE C. CAMPBELL
CITY MANAGER

ATTEST:

JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:

ANITA BURGESS, CITY ATTORNEY

BY: 

HAZEN AND SAWYER, P.C.

BY: 

CHAMINDRA DASSANAYAKE, PhD, PE
Project Director – Vice President

WITNESS:

BY: 

Robert C. Reach, P.E.
Vice President

**CITY OF DENTON
GENERAL CONDITIONS
TO
AGREEMENT FOR ARCHITECTURAL OR ENGINEERING SERVICES**

ARTICLE 1. ARCHITECT OR ENGINEER'S RESPONSIBILITIES

1.1 The Architect or Engineer's services consist of those services for the Project (as defined in the agreement (the "Agreement") and proposal (the "Proposal") to which these General Conditions are attached) performed by the Architect or Engineer (hereinafter called the "Design Professional") or Design Professional's employees and consultants as enumerated in Articles 2 and 3 of these General Conditions as modified by the Agreement and Proposal (the "Services").

1.2 The Design Professional will perform all Services as an independent contractor to the prevailing professional standards consistent with the level of care and skill ordinarily exercised by members of the same profession currently practicing in the same locality under similar conditions, including reasonable, informed judgments and prompt timely actions (the "Degree of Care"). The Services shall be performed as expeditiously as is consistent with the Degree of Care necessary for the orderly progress of the Project. Upon request of the Owner, the Design Professional shall submit for the Owner's approval a schedule for the performance of the Services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule and approved by the Owner shall not, except for reasonable cause, be exceeded by the Design Professional or Owner, and any adjustments to this schedule shall be mutually acceptable to both parties.

ARTICLE 2 SCOPE OF BASIC SERVICES

2.1 BASIC SERVICES DEFINED The Design Professional's Basic Services consist of those described in Sections 2.2 through 2.6 of these General Conditions and include without limitation normal structural, civil, mechanical and electrical engineering services and any other engineering services necessary to produce a complete and accurate set of Construction Documents, as described by and required in Section 2.4. The Basic Services may be modified by the Agreement.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Design Professional, in consultation with the Owner, shall develop a written program for the Project to ascertain Owner's needs and to establish the requirements for the Project.

2.2.2 The Design Professional shall provide a preliminary evaluation of the Owner's program, construction schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Subsection 5.2.1.

2.2.3 The Design Professional shall review with the Owner alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed-upon program, schedule and construction budget requirements, the Design Professional shall prepare, for approval by the Owner, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components. The Schematic Design shall contemplate compliance with all applicable laws, statutes, ordinances, codes and regulations.

2.2.5 The Design Professional shall submit to the Owner a preliminary detailed estimate of Construction Cost based on current area, volume or other unit costs and which indicates the cost of each category of work involved in constructing the Project and establishes an elapsed time factor for the period of time from the commencement to the completion of construction.

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Design Professional shall prepare for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate, which shall comply with all applicable laws, statutes, ordinances, codes and regulations. Notwithstanding Owner's approval of the documents, Design Professional represents that the Documents and specifications will be sufficient and adequate to fulfill the purposes of the Project.

2.3.2 The Design Professional shall advise the Owner of any adjustments to the preliminary estimate of Construction Cost in a further Detailed Statement as described in Section 2.2.5.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Design Professional shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications setting forth in detail requirements for the construction of the Project, which shall comply with all applicable laws, statutes, ordinances, codes and regulations.

2.4.2 The Design Professional shall assist the Owner in the preparation of the necessary bidding or procurement information, bidding or procurement forms, the Conditions of the contract, and the form of Agreement between the Owner and contractor.

2.4.3 The Design Professional shall advise the Owner of any adjustments to previous preliminary estimates of Construction Cost indicated by changes in requirements or general market conditions.

2.4.4 The Design Professional shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

2.5 CONSTRUCTION CONTRACT PROCUREMENT

2.5.1 The Design Professional, following the Owner's approval of the Construction Documents and of the latest preliminary detailed estimate of Construction Cost, shall assist the Owner in procuring a construction contract for the Project through any procurement method that is legally applicable to the Project including without

limitation, the competitive sealed bidding process. Although the Owner will consider the advice of the Design Professional, the award of the construction contract is in the sole discretion of the Owner.

2.5.2 If the construction contract amount for the Project exceeds the total construction cost of the Project as set forth in the approved Detailed Statement of Probable Construction Costs of the Project submitted by the Design Professional, then the Design Professional, at its sole cost and expense, will revise the Construction Documents as may be required by the Owner to reduce or modify the quantity or quality of the work so that the total construction cost of the Project will not exceed the total construction cost set forth in the approved Detailed Statement of Probable Construction Costs.

2.6 CONSTRUCTION PHASE - ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 The Design Professional's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates at the issuance to the Owner of the final Certificate for Payment, unless extended under the terms of Subsection 8.3.2.

2.6.2 The Design Professional shall provide detailed administration of the Contract for Construction as set forth below. For design professionals the administration shall also be in accordance with AIA document A201, General Conditions of the Contract for Construction, current as of the date of the Agreement as may be amended by the City of Denton special conditions, unless otherwise provided in the Agreement. For engineers the administration shall also be in accordance with the Standard Specifications for Public Works Construction by the North Central Texas Council of Governments, current as of the date of the Agreement, unless otherwise provided in the Agreement.

2.6.3 Construction Phase duties, responsibilities and limitations of authority of the Design Professional shall not be restricted, modified or extended without written agreement of the Owner and Design Professional.

2.6.4 The Design Professional shall be a representative of and shall advise and consult with the Owner (1) during construction, and (2) at the Owner's direction from time to time during the correction, or warranty period described in the Contract for Construction. The Design Professional shall have authority to act on behalf of the Owner only to the extent provided in the Agreement and these General Conditions, unless otherwise modified by written instrument.

2.6.5 The Design Professional shall observe the construction site at least one time a week, while construction is in progress, and as reasonably necessary while construction is not in progress, to become familiar with the progress and quality of the work completed and to determine if the work is being performed in a manner indicating that the work when completed will be in accordance with the Contract Documents. Design Professional shall provide Owner a written report subsequent to each on-site visit. On the basis of on-site observations the Design Professional shall keep the Owner informed of the progress and quality of the work, and shall exercise the Degree of Care and diligence in discovering and promptly reporting to the Owner any observable defects or deficiencies in the work of Contractor or any subcontractors. The Design Professional represents that he will follow Degree of Care in performing all Services under the Agreement. The Design Professional shall promptly correct any defective designs or specifications furnished by the Design Professional at no cost to the Owner. The Owner's approval, acceptance, use of or payment for all or any part of the Design Professional's Services hereunder or of the Project itself shall in no way alter the Design Professional's obligations or the Owner's rights hereunder.

2.6.6 The Design Professional shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work. The Design Professional shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the Contract Documents except insofar as such failure may result from Design Professional's negligent acts or omissions. The Design Professional shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the work.

2.6.7 The Design Professional shall at all times have access to the work wherever it is in preparation or progress.

2.6.8 Except as may otherwise be provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall communicate through the Design Professional. Communications by and with the Design Professional's consultants shall be through the Design Professional.

2.6.9 Based on the Design Professional's observations at the site of the work and evaluations of the Contractor's Applications for Payment, the Design Professional shall review and certify the amounts due the Contractor.

2.6.10 The Design Professional's certification for payment shall constitute a representation to the Owner, based on the Design Professional's observations at the site as provided in Subsection 2.6.5 and on the data comprising the Contractor's Application for Payment, that the work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Design Professional. The issuance of a Certificate for Payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Design Professional has (1) reviewed construction means, methods, techniques, sequences or procedures, or (2) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

2.6.11 The Design Professional shall have the responsibility and authority to reject work which does not conform to the Contract Documents. Whenever the Design Professional considers it necessary or advisable for implementation of the intent of the Contract Documents, the Design Professional will have authority to require additional inspection or testing of the work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Design Professional nor a decision made in good faith either to exercise or not exercise such authority shall give rise to a duty or responsibility of the Design Professional to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the work.

2.6.12 The Design Professional shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples for the purpose of (1) determining compliance with applicable laws, statutes, ordinances and codes; and (2) determining whether or not the work, when completed, will be in compliance with the requirements of the Contract Documents. The Design Professional shall act with such reasonable promptness to cause no delay in the work or in the construction of the Owner or of separate contractors, while allowing sufficient time in the Design Professional's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The Design Professional's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Design Professional, of construction means, methods, techniques, sequences or procedures. The Design Professional's approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics

of materials, systems or equipment is required by the Contract Documents, the Design Professional shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

2.6.13 The Design Professional shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by the Design Professional as provided in Subsections 3.1.1 and 3.3.3, for the Owner's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents.

2.6.14 On behalf of the Owner, the Design Professional shall conduct inspections to determine the dates of Substantial Completion and Final Completion, and if requested by the Owner shall issue Certificates of Substantial and Final Completion. The Design Professional will receive and review written guarantees and related documents required by the Contract for Construction to be assembled by the Contractor and shall issue a final certificate for Payment upon compliance with the requirements of the Contract Documents.

2.6.15 The Design Professional shall interpret and provide recommendations on matters concerning performance of the Owner and Contractor under the requirements of the Contract Documents on written request of either the Owner or Contractor. The Design Professional's response to such requests shall be made with reasonable promptness and within any time limits agreed upon.

2.6.16 Interpretations and decisions of the Design Professional shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Design Professional shall endeavor to secure faithful performance by both Owner and Contractor, and shall not be liable for results or interpretations or decisions so rendered in good faith in accordance with all the provisions of this Agreement and in the absence of negligence.

2.6.17 The Design Professional shall render written decisions within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the execution or progress of the work as provided in the Contract Documents.

2.6.18 The Design Professional (1) shall render services under the Agreement in accordance with the Degree of Care; (2) will reimburse the Owner for all damages caused by the defective designs the Design Professional prepares; and (3) by acknowledging payment by the Owner of any fees due, shall not be released from any rights the Owner may have under the Agreement or diminish any of the Design Professional's obligations thereunder.

2.6.19 The Design Professional shall provide the Owner with four sets of reproducible prints showing all significant changes to the Construction Documents during the Construction Phase.

ARTICLE 3 ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 The services described in this Article 3 are not included in Basic Services unless so identified in the Agreement or Proposal, and they shall be paid for by the Owner as provided in the Agreement, in addition to the compensation for Basic Services. The services described under Sections 3.2 and 3.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Section 3.3 are required due to circumstances beyond the Design Professional's control, the Design Professional shall notify the Owner in writing and shall not commence such additional services until it receives written approval from the Owner to proceed. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, the Design Professional shall have no obligation to provide those services. Owner will be responsible for compensating the Design Professional for Contingent Additional Services only if they are not required due to the negligence or fault of Design Professional.

3.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

3.2.1 If more extensive representation at the site than is described in Subsection 2.6.5 is required, the Design Professional shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

3.2.2 Project Representatives shall be selected, employed and directed by the Design Professional, and the Design Professional shall be compensated therefor as agreed by the Owner and Design Professional.

3.3 CONTINGENT ADDITIONAL SERVICES

3.3.1 Making material revisions in Drawings, Specifications or other documents when such revisions are:

1. inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
2. required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents, or
3. due to changes required as a result of the Owner's failure to render decision in a timely manner.

3.3.2 Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, or the Owner's schedule, except for services required under Subsection 2.5.2.

3.3.3 Preparing Drawings, Specifications and other documentation and supporting data, and providing other services in connection with Change Orders and Construction Change Directives.

3.3.4 Providing consultation concerning replacement of work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such work.

3.3.5 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

3.3.6 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the work.

3.3.7 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Design Professional is party thereto.

3.3.8 Providing services in addition to those required by Article 2 for preparing documents for alternate, separate or sequential bids or providing services in connection with bidding or construction prior to the completion of the Construction Documents Phase.

3.3.9 Notwithstanding anything contained in the Agreement, Proposal or these General Conditions to the contrary, all services described in this Article 3 that are caused or necessitated in whole or in part due to the negligent act or omission of the Design Professional shall be performed by the Design Professional as a part of the Basic Services under the Agreement with no additional compensation above and beyond the compensation due the Design Professional for the Basic Services. The intervening or concurrent negligence of the Owner shall not limit the Design Professional's obligations under this Subsection 3.3.9.

3.4 OPTIONAL ADDITIONAL SERVICES

3.4.1 Providing financial feasibility or other special studies.

3.4.2 Providing planning surveys, site evaluations or comparative studies of prospective sites.

3.4.3 Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project.

3.4.4 Providing services relative to future facilities, systems and equipment.

3.4.5 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

3.4.6 Providing services to verify the accuracy of drawings or other information furnished by the Owner.

3.4.7 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

3.4.8 Providing detailed quantity surveys or inventories of material, equipment and labor.

3.4.9 Providing analyses of operating and maintenance costs.

3.4.10 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

3.4.12 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

3.4.13 Providing interior design and similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment.

3.4.14 Providing services other than as provided in Section 2.6.4, after issuance to the Owner of the final Certificate for Payment and expiration of the Warranty period of the Contract for Construction.

3.4.15 Providing services of consultants for other than architectural, civil, structural, mechanical and electrical engineering portions of the Project provided as a part of Basic Services.

3.4.16 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

3.4.17 Preparing a set of reproducible record drawings in addition to those required by Subsection 2.6.19, showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Design Professional.

3.4.18 Notwithstanding anything contained in the Agreement, Proposal or these General Conditions to the contrary, all services described in this Article 3 that are caused or necessitated in whole or in part due to the negligent act or omission of the Design Professional shall be performed by the Design Professional as a part of the Basic Services under the Agreement with no additional compensation above and beyond the compensation due the Design Professional for the Basic Services. The intervening or concurrent negligence of the Owner shall not limit the Design Professional's obligations under this Subsection 3.4.18.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 The Owner shall consult with the Design Professional regarding requirements for the Project, including (1) the Owner's objectives, (2) schedule and design constraints and criteria, including space requirements and relationships, flexibility, expendability, special equipment, systems and site requirements, as more specifically described in Subsection 2.2.1.

4.2 The Owner shall establish and update an overall budget for the Project, including the Construction Cost, the Owner's other costs and reasonable contingencies related to all of these costs.

4.3 If requested by the Design Professional, the Owner shall furnish evidence that financial arrangements have been made to fulfill the Owner's obligations under this Agreement.

4.4 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Design Professional in order to avoid unreasonable delay in the orderly and sequential progress of the Design Professional's services.

4.5 Where applicable, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.

4.6 Where applicable, the Owner shall furnish the services of geotechnical engineers when such services are requested by the Design Professional. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating sub-soil conditions, with reports and appropriate professional recommendations.

4.6.1 The Owner shall furnish the services of other consultants when such services are reasonably required by the scope of the Project and are requested by the Design Professional and are not retained by the Design Professional as part of its Basic Services or Additional Services.

4.7 When not a part of the Additional Services, the Owner shall furnish structural, mechanical, chemical, air and water pollution tests, tests of hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Contract Documents.

4.8 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

4.9 The services, information, surveys and reports required by Owner under Sections 4.5 through 4.8 shall be furnished at the Owner's expense, and the Design Professional shall be entitled to rely upon the accuracy and completeness thereof in the absence of any negligence on the part of the Design Professional.

4.10 The Owner shall give prompt written notice to the Design Professional if the Owner becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

4.11 Design Professional shall propose language for certificates or certifications to be requested of the Design Professional or Design Professional's consultants and shall submit such to the Owner for review and approval at least fourteen (14) days prior to execution. The Owner agrees not to request certifications that would require knowledge or services beyond the scope of the Agreement.

ARTICLE 5 CONSTRUCTION COST

5.1 CONSTRUCTION COST DEFINED

5.1.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Design Professional.

5.1.2 The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Design Professional, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the work during construction.

5.1.3 Construction Cost does not include the compensation of the Design Professional and Design Professional's consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 4.

5.2 RESPONSIBILITY FOR CONSTRUCTION COST

5.2.1 Evaluations of the Owner's Project budget, preliminary estimates of Construction Cost and detailed estimates of Construction Cost prepared by the Design Professional represent the Design Professional's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Design Professional nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the Design Professional cannot and does not warrant or represent that bids or cost proposals will not vary from the Owner's Project budget or from any estimate of Construction Cost or evaluation prepared or agreed to by the Design Professional.

5.2.2 No fixed limit of Construction Cost shall be established as a condition of the Agreement by the furnishing, proposal or establishment of a Project budget, unless such fixed limit has been agreed upon in writing and signed by the parties thereto. If such a fixed limit has been established, the Design Professional shall be permitted to include contingencies for design, bidding and price escalation, to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids to adjust the Construction Cost to the fixed limit. Fixed limits, if any, shall be increased in the amount of an increase in the Contract Sum occurring after execution of the Contract for Construction.

5.2.3 If the Procurement Phase has not commenced within 90 days after the Design Professional submits the Construction Documents to the Owner, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the Owner and the date on which proposals are sought.

ARTICLE 6 OWNERSHIP AND USE OF DOCUMENTS

6.1 The Drawings, Specifications and other documents prepared by the Design Professional for this Project are instruments of the Design Professional's service and shall become the property of the Owner upon termination or completion of the Agreement. The Design Professional is entitled to retain copies of all such documents. Such documents are intended only be applicable to this Project, and Owner's use of such 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 the Agreement in another project or for other purposes than are specified in the Agreement, the Design Professional is released from any and all liability relating to their use in that project

6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Design Professional's reserved rights.

ARTICLE 7 TERMINATION, SUSPENSION OR ABANDONMENT

7.1 The Design Professional may terminate the Agreement upon not less than thirty days written notice should the Owner fail substantially to perform in accordance with the terms of the Agreement through no fault of the Design Professional. Owner may terminate the Agreement or any phase thereof with or without cause upon thirty (30) days prior written notice to the Design Professional. All work and labor being performed under the Agreement shall cease immediately upon Design Professional's receipt of such notice. Before the end of the thirty (30) day period, Design Professional shall invoice the Owner for all work it satisfactorily performed prior to the receipt of such notice. No amount shall be due for lost or anticipated profits. All plans, field surveys, and other data related to the Project shall become property of the Owner upon termination of the Agreement and shall be promptly delivered to the Owner in a reasonably organized form. Should Owner subsequently contract with a new Design Professional for continuation of services on the Project, Design Professional shall cooperate in providing information.

7.2 If the Project is suspended by the Owner for more than 30 consecutive days, the Design Professional shall be compensated for services satisfactorily performed prior to notice of such suspension. When the Project is resumed, the Design Professional's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the Design Professional's services.

7.3 The Agreement may be terminated by the Owner upon not less than seven days written notice to the Design Professional in the event that the Project is permanently abandoned. If the Project is abandoned by the Owner for more than 90 consecutive days, the Design Professional or the Owner may terminate the Agreement by giving written notice.

7.4 Failure of the Owner to make payments to the Design Professional for work satisfactorily completed in accordance with the Agreement shall be considered substantial non-performance and cause for termination.

7.5 If the Owner fails to make payment to Design Professional within thirty (30) days of receipt of a statement for services properly and satisfactorily performed, the Design Professional may, upon seven days written notice to the Owner, suspend performance of services under the Agreement.

7.6 In the event of termination not the fault of the Design Professional, the Design Professional shall be compensated for services properly and satisfactorily performed prior to termination.

ARTICLE 8 PAYMENTS TO THE DESIGN PROFESSIONAL

8.1 DIRECT PERSONNEL EXPENSE

8.1.1 Direct Personnel Expense is defined as the direct salaries of the Design Professional's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

8.2 REIMBURSABLE EXPENSES

8.2.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Design Professional and Design Professional's employees and consultants in the interest of the Project, as identified in the following Clauses.

8.2.1.1 Expense of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the Project.

8.2.1.2 Expense of reproductions (except the reproduction of the sets of documents referenced in Subsection 2.6.19), postage and handling of Drawings, Specifications and other documents.

8.2.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.

8.2.1.4 Expense of renderings, models and mock-ups requested by the Owner.

8.2.1.5 Expense of computer-aided design and drafting equipment time when used in connection with the Project.

8.2.1.6 Other expenses that are approved in advance in writing by the Owner.

8.3 PAYMENTS ON ACCOUNT OF BASIC SERVICES

8.3.1 Payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Section 2 of the Agreement and the schedule of work.

8.3.2 If and to the extent that the time initially established in the Agreement is exceeded or extended through no fault of the Design Professional, compensation for any services rendered during the additional period of time shall be computed in the manner set forth in Section 2 of the Agreement.

8.3.3 When compensation is based on a percentage of Construction Cost and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 2 of the Agreement based on (1) the lowest bona fide bid or (2) if no such bid or proposal is received, the most recent preliminary estimate of Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

8.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

8.4.1 Payments on account of the Design Professional's Additional Services and for Reimbursable Expenses shall be made monthly within 30 days after the presentation to the Owner of the Design Professional's statement of services rendered or expenses incurred.

8.5 PAYMENTS WITHHELD No deductions shall be made from the Design Professional's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the work other than those for which the Design Professional is responsible.

8.6 DESIGN PROFESSIONAL'S ACCOUNTING RECORDS Design Professional shall make available to Owner or Owner's authorized representative records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense for inspection and copying during regular business hours for three years after the date of the final Certificate of Payment, or until any litigation related to the Project is final, whichever date is later.

ARTICLE 9 INDEMNITY

9.1 The Design Professional shall indemnify and save and hold harmless the Owner and its officers, agents, and employees from and against any and all liability, claims, demands, damages, losses, and expenses, including, but not limited to court costs and reasonable attorney fees incurred by the Owner, and including, without limitation, damages for bodily and personal injury, death and property damage, resulting from the negligent acts or omissions of the Design Professional or its officers, shareholders, agents, or employees in the performance of the Agreement.

9.2 Nothing herein shall be construed to create a liability to any person who is not a party to the Agreement, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to the Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved.

ARTICLE 10 INSURANCE During the performance of the Services under the Agreement, Design Professional shall maintain the following insurance with an insurance company licensed or authorized to do business in the State of Texas by the State Insurance Commission or any successor agency that has a rating with Best Rate Carriers of at least an A- or above:

10.1 Comprehensive General Liability Insurance with bodily injury limits of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate, and with property damage limits of not less than \$100,000 for each occurrence and not less than \$250,000 in the aggregate.

10.2 Automobile Liability Insurance with bodily injury limits of not less than \$500,000 for each person and not less than \$500,000 for each accident, and with property damage limits of not less than \$100,000 for each accident.

10.3 Worker's Compensation Insurance in accordance with statutory requirements, and Employers' Liability Insurance with limits of not less than \$100,000 for each accident including occupational disease.

10.4 Professional Liability Insurance with limits of not less than \$1,000,000 annual aggregate.

10.5 The Design Professional shall furnish insurance certificates or insurance policies to the Owner evidencing insurance in compliance with this Article 10 at the time of the execution of the Agreement. The General Liability and Automobile Liability insurance policies shall name the Owner as an additional insured, the Workers' Compensation policy shall contain a waiver of subrogation in favor of the Owner, and each policy shall contain a provision that such insurance shall not be canceled or modified without thirty (30) days' prior written notice to Owner and Design Professional. In such event, the Design Professional shall, prior to the effective date of the change or cancellation, furnish Owner with substitute certificates of insurance meeting the requirements of this Article 10.

ARTICLE 11 MISCELLANEOUS PROVISIONS

11.1 The Agreement shall be governed by the laws of the State of Texas. Venue of any suit or cause of action under the Agreement shall lie exclusively in Denton County, Texas.

11.2 The Owner and Design Professional, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Design Professional shall not assign its interests in the Agreement without the written consent of the Owner.

11.3 The term Agreement as used herein includes the executed Agreement, the Proposal, these General Conditions and other attachments referenced in Section 3 of the Agreement which together represent the entire and integrated agreement between the Owner and Design Professional and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both Owner and Design Professional. When interpreting the Agreement the executed Agreement, Proposal, these General Conditions and the other attachments referenced in Section 3 of the Agreement shall to the extent that is reasonably possible be read so as to harmonize the provisions. However, should the provisions of these documents be in conflict so that they can not be reasonably harmonized, such documents shall be given priority in the following order:

1. The executed Agreement
2. Attachments referenced in Section 3 of the Agreement other than the Proposal
3. These General Provisions
4. The Proposal

11.4 Nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Design Professional.

11.5 Upon receipt of prior written approval of Owner, the Design Professional shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Design Professional's promotional and professional materials. The Design Professional's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Design Professional in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Design Professional on the construction sign and in the promotional materials for the Project.

11.6 Approval by the Owner shall not constitute, nor be deemed a release of the responsibility and liability of the Design Professional, 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 Design Professional, its employees, subcontractors, agents, and consultants.

11.7 All notices, communications, and reports required or permitted under the Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail to the address shown below signature block on the Agreement, certified mail, return receipt requested, unless otherwise specified herein. All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three (3) days after mailing.

11.8 If any provision of the 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 the Agreement and shall not cause the remainder to be invalid or unenforceable. In such event, the parties shall reform the 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.

11.9 The Design Professional shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the work covered hereunder as they may now read or hereinafter be amended during the term of this Agreement.

11.10 In performing the Services required hereunder, the Design Professional shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

11.11 The captions of the Agreement are for informational purposes only, and shall not in any way affect the substantive terms or conditions of the Agreement.

Contract # 5768
Exhibit A
Scope of Services

June 8, 2015

HAZEN AND SAWYER
Environmental Engineers & Scientists

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Dallas, TX 75206
(214) 382-5750
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Assistant Director of Wastewater Utilities
City of Denton
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RE: Attachment A: Scope of Work - Design of Hickory Creek Peak Flow Detention Facility (RFQ 5768)

Background and Project Overview

The City of Denton (City) selected Hazen and Sawyer to design the Hickory Creek Peak Flow Detention Facility (PFDF). The peak flow detention facility will manage peak flows from the 5-year design storm event using 6 to 7-million gallons (MG) of storage along with a 24-million gallons per day (MGD) peak flow pump station to shave flows from the Hickory Creek Interceptor to the peak flow storage basins. The design effort includes the geotechnical investigations for foundation design, site plan for the proposed detention facility including the peak flow pump station and odor control system, SCADA system integration of the detention facility, drainage plan, conformance to City of Denton ESA requirements for installation of gravity sewer in the floodplain, conformance to Denton Development Code requirements as applicable, preparation of final plans and specifications for conducting the public procurement process for construction of the detention facility project, and construction management services as requested by the City.

Hazen will include the following features with the conveyance system and storage basin designs:

- Two new gravity sewer pipelines sized in accordance with design, local, state and federal design requirements
- One (1) manhole weir diversion structure (without screening)
- One (1) new permanent vehicle access road at the project site including a concrete paved access point, asphalt road along the railroad to the new property line, and concrete paving with a vehicle turn around inside the fenced project site. Construction of the road from the asphalt section to the site shall be the responsibility of the City of Denton. The ENGINEER will provide survey, grading maps and civil design (storm water culverts and general grading) for direction.
- One (1) 3-3.5 MG above ground covered pre-stressed concrete tank with pump in, gravity out configuration. Site layout will designate the location for a second 3-3.5 MG above ground tank to be designed and constructed at a later date.
- One (1) 24 MGD pump station with non-clog submersible pumps, pump retrieval system, piping, valves and appurtenances.
- Nozzle based flushing system for storage basin cleaning using either rain water or a potable water source.
- Site lighting.
- Ventilation and odor control for the storage tanks.
- Storage basin flow monitoring (influent and effluent).
- Electrical utility service to the storage facility site.

- Electrical equipment will be rated for outdoor use in place of housing it in an electrical building.
- Fencing around storage basins and pump station with a manual gate.

Project Scope

Task 100: Investigation and Preliminary Engineering Services

Subtask 101: Review Existing Information and Design Basis Confirmation

ENGINEER will review information provided by the City related to the design of the Hickory Creek PFDF including, but not limited to:

- Property Boundary Survey
- Hickory Creek Interceptor Drawings
- Special Use Permit
- City of Denton InfoWorks Model Outputs for the Design Storm(s)
- Existing utility information including power supply, voltage, capacity, etc.
- Radio Communication Survey
- Relevant City of Denton Design Criteria Manuals and Development Code Requirements

ENGINEER will review existing information and confirm that the necessary background information is available to proceed with the design. The ENGINEER will use the existing City of Denton InfoWorks model outputs to confirm the design criteria with a more detailed design evaluation of varying storm events, storage sizes and pumping rates.

Scope Item Assumptions:

- Boundary survey electronic files, datum information, etc.
- Record drawing files will be provided in .PDF or .JPEG format
- City will provide InfoWorks model outputs required to define the basis of design. Engineer assumes no liability for City's InfoWorks model outputs.

Meetings:

- 1 hour in meeting with City InfoWorks modeler to obtain/ run necessary storm scenarios

Deliverables:

- Data request letter transmitted electronically in PDF format.

Subtask 102: Geotechnical Investigation

ENGINEER will perform a site specific geotechnical investigation including coordination with the geotechnical investigation sub-consultant, review and analysis of the geotechnical investigation report, and summary of design requirements.

Scope Item Assumptions:

- A total of four (4) borings for one storage tank
- A total of one (1) boring for the pump station facilities
- A total of four (4) borings for the gravity wastewater pipeline alignments
- A total of three (3) borings for the road paving; near the railroad for the asphalt road and two for the millings road to be constructed by the City.
- Tree clearing required for geotechnical investigation will be minimized and only performed for drill equipment access. Clearing debris will be left on site for City to process/dispose. City will be notified prior to any clearing.
- A written report will be provided summarizing the geotechnical findings with all the required information to the tank vendor for design of the proposed storage tank, including, but not limited to:
 - Foundation recommendations
 - Groundwater table conditions
 - Pipe trench bedding recommendations
 - Soil characteristics such as allowable bearing pressure, lateral earth pressure, subsurface soil profile, etc.
 - Seismic parameters
- All site activities will be coordinated with the City and in accordance with the City's agreements with adjacent property owners.

Meetings:

- None.

Deliverables:

- One electronic (.PDF format) and three (3) hard copies of the geotechnical investigation report.

Subtask 103: Hydraulic Evaluation

ENGINEER will perform preliminary design calculations to determine optimum pipeline sizes, pump station location and confirm operation philosophies for filling and draining the storage tanks. Alternative pipeline alignments will be evaluated to minimize environmental impacts cost effectively and identify any permit or mitigation requirements for an alignment alternative.

Subtask activities will include:

- Evaluating two alignment options for the gravity wastewater pipelines to and from the Hickory Creek Interceptor to the project site.
- Performing hydraulic calculations required to optimize pipeline size, minimum slopes, capacity (16,700 gpm, 24 MGD), wet well size, etc.
- Developing a hydraulic profile for the selected alternative
- Confirm operational philosophies with constant speed pumps and develop hydraulic calculations. VFD analysis is not included as part of this evaluation.
- Evaluating tank draining operational philosophy and control method to align with Hickory Creek PS wet well level management

- Investigating compliance requirements with the Endangered Species Act (ESA) requirements in the undeveloped floodplain and 200-ft riparian barrier
- Investigating of US Army Corps of Engineers (USACE) design and permit requirements
- Develop an AACE Class 4 Preliminary Opinion of Probable Construction Cost for the evaluation of pipeline alignment alternatives and pump station sizing options evaluated.

Assumptions:

- City will provide control philosophy and operating data (flow, pump on/off frequency, level, etc.) of Hickory Creek LS in electronic form.
- City will provide hydraulic profile of interceptor line connecting the proposed facilities and Hickory Creek LS.

Meetings:

- One 1-hour evaluation review meeting to present alternatives evaluated and summarize the preliminary recommendations

Deliverables:

- A summary of the evaluation will be delivered as part of the Subtask 105 Basis of Design Technical Memorandum.

Subtask 104: Tank Cleaning Evaluation

ENGINEER will perform preliminary design calculations for the tank cleaning system requirements and methods for pump station cleaning. Alternative tank flushing water sources will be evaluated including rain water harvesting and potable water.

Assumptions:

- A nozzle based system will be designed. Wave flush technologies will not be evaluated as part of this project
- Flushing water source will be evaluated including rain water harvesting and potable water
- City will provide potable water supply pressure and flow information for the tie-in line at the Bent Creek Estates or the existing pipeline at Fort Worth Drive
- City will provide relevant design storm information and inches of rainfall to determine feasibility of rain water harvesting
- Develop a AACE Class 4 Preliminary Opinion of Probable Construction Cost for the evaluation of alternatives

Meetings:

- A 1-hour meeting; to present the findings of the evaluation and present a recommendation to the City.

Deliverables:

- A summary of the evaluation will be delivered as part of the Subtask 105 Basis of Design Technical Memorandum.

Subtask 105: Basis of Design Technical Memorandum

ENGINEER will perform a preliminary design of the siting and location of access roads, tanks, pump station, yard piping layout and all related appurtenances. Analysis will determine impacts to surrounding environmental resources such as encroachments to floodplain and stream buffer boundaries, as well as determine overall project footprint and the necessary regulatory permits required for environmental and construction compliance. In addition, a summary of each evaluation performed in previous tasks will be included as part of the technical memorandum to document the design decisions. The memorandum will include basis of design summaries for each discipline based on the preliminary design activities.

Subtask activities will include:

- Performing a code review to determine permit, easement and regulatory requirements that impact the facility for impacted disciplines
- Preparing discipline design basis summaries that are to include the following areas:
 - General – Hydraulic profile and process flow schematic
 - Civil – Site Work and Yard Piping
 - Investigation of site grading alternatives
 - Determination of total project footprint and impact for the performance of topographical survey
 - Compliance with TPDES General Permit for stormwater discharges during construction
 - Compliance with City of Denton Site Design and Drainage Design Criteria
 - Coordination with the Corp of Engineers on compliance requirements with the Endangered Species Act (ESA) requirements in the undeveloped floodplain and 200-ft riparian barrier
 - Determination of the water line alignment from the nearby Bent Creek Estates or Fort Worth Drive to the project site
 - Coordination with the railroad easement owner or the City of Denton Parks Department (for Fort Worth Drive pipeline option) to determine permit requirements
 - Determine Texas Department of Transportation permit requirements for site access road (driveway permits, Right-of-Way)
 - A preliminary site plan showing preliminary location of above grade facilities, pipeline alignments and road way access, power easement, etc.
 - A preliminary site grading and drainage plan showing revised site contours
 - List of anticipated required project permits
 - Structural
 - Foundation type and subgrade requirements for major facilities based on results of the geotechnical investigation

- Basic scope assumes a reconstructed subgrade with a concrete slab on grade. The detailed foundation design will be done by the storage tank manufacturer
- Determination of viable tank manufacturers
- Mechanical
 - Basis of design for the design storm, storage volume, pumps, pump station wet well, pipelines, acceptable manufacturers and equipment preferences
 - Preliminary plan and section of major facilities
- Electrical and Instrumentation
 - Site electrical requirements including incoming service, power distribution, backup power requirements, materials of construction, and identification of equipment manufacturers
 - Electrical facilities will be designed with a portable emergency generator connection, which would allow for a standby generator to be installed in the future
 - Preliminary control philosophy
 - City's power supply delivery plan and scope summary
 - Preliminary site lighting plan
 - Bottom half of the P&ID
 - Electrical one line diagram(s)

Meetings:

- One, 2-hour meeting to review the draft technical memorandum and receive the City's review comments Deliverables:
- One electronic (.PDF format) copy and five hard copies of the draft technical memorandum.
- One electronic (.PDF format) copy and five hard copies of the final technical memorandum.

Task 200: Detailed Design and Bid Phase Services

Subtask 201: 50-Percent Design

ENGINEER will perform the necessary design calculations, agency coordination, development of plans, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 50% level design detailed below.

Subtask activities will include:

- Preparing the 50% design drawings which will contain the following in general:
 - General Sheets
 - Civil – existing plan (identifies horizontal and vertical control information, existing easements, flood plain, flood way, setbacks and buffers, existing facilities, roads, etc.), existing grading, proposed facility plan, proposed site grading plan, proposed

- site paving plan, proposed yard piping plan, gravity and force main plans and profiles, site erosion and sediment control plan, storm water control plan and standard details.
- Mechanical – facility plans and primary sections (storage tanks, pump station, odor control system, rain water harvesting system, etc.), and initial standard details
- Structural– general notes, facility plans and primary sections, and standard details
- Electrical – general notes, single line diagrams, proposed site plan, lighting plan, power plan, electrical equipment elevations and standard details
- Instrumentation – symbols and diagrams, piping and instrumentation diagrams, system block diagrams, and standard details
- Prepare 50% technical specifications for all disciplines
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 50% level design
- Obtain standard front-end documents from the City and begin coordination with overall project
- Conduct an internal milestone quality control review
- Perform a 50% internal constructability review
- Perform a 50% internal interdisciplinary coordination workshop
- Review the 50% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 50% design submittal review and City comment workshop

Deliverables:

- One electronic (.PDF format) copy and five hard copies of the 50% plans and specifications
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records

Subtask 202: 90-Percent Design

ENGINEER will perform necessary design calculations, agency coordination, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 90% level design detailed below.

Subtask activities will include

- Incorporating City's 50% comments.
- Preparing the 90% design drawings which comply with applicable Federal, State and local regulations and the City's Standards. All 50% drawings developed to a 90% design level. The content of the set in addition to 90% design includes:

- Civil– additional erosion control measures, staking data, landscaping and temporary irrigation plans (if necessary), contractor staging area, laydown areas, and other pertinent project specific details
- Structural– facility sections, foundation schedules, special inspection requirements and project specific details
- Mechanical – Develop additional mechanical design on 50% content to include, miscellaneous detail annotation, piping, valves, construction notes, sequence of work, elevations, etc. Additional plans and sections will be added as necessary to clarify design intent.
- Electrical – duct bank schedules, grounding plans, riser diagrams, control one line diagrams, conduit and wire schedules and project specific details
- Instrumentation – project specific details
- Prepare 90% technical specifications for all disciplines including bidding and contract requirements and existing infrastructure tie in requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 90% level design
- Coordinate front-end documents from the City
- Conduct an internal milestone quality control review
- Perform a 90% internal interdisciplinary coordination workshop
- Review the 90% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 90% design submittal review workshop

Deliverables:

- One electronic (.PDF format) copy and five hard copies of the 90% plans and specifications
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records

Subtask 203: 100-Percent / Bid Set

ENGINEER will develop bid ready construction documents set including drawings, technical specifications and an AACE Class 1 Opinion of Probable Construction Cost estimate.

Subtask activities will include:

- Incorporating the City's 90% review comments.
- Preparing the bid ready design drawings using the 90% documents
- Prepare bid ready technical specifications for all disciplines including final bidding and contract requirements.

- Prepare AACE Class 1 Opinion of Probable Construction Costs based on bid level design
- Finalize front-end documents with the City

Meetings:

- None.

Deliverables:

- One electronic (.PDF format) copy of full size and half size drawings
- One hard copy of half size drawings and technical specification. The hard copy set will be submitted unbound for easy reproduction by the City
- One electronic (.PDF format) copy of the action item log, and client review comment log and for the City's records

Subtask 204: Bid Phase

The ENGINEER will provide bid phase services including attending the pre-bid meeting, answering contractor questions and inquiries through written addenda, reviewing the bid submissions and providing any additional recommendations required by the City.

Assumptions:

- The City will provide electronic and hard copy bid documents to all interested bidders
- The City will receive all questions and inquiries from contractors in writing and provide them to the ENGINEER for response.
- ENGINEER will keep record on questions and inquiries to be addressed from the pre-bid meeting
- ENGINEER will prepare all addenda and provide electronic copies for the City to issue to bidders
- ENGINEER will prepare the conformed documents after bid phase is completed.
- ENGINEER will not provide hard copy bid set drawings or specification to bidders
- ENGINEER will provide hard copy conformed set of half size and full size drawings and specifications to the City unbound for easy reproduction by the City

Meetings:

- One, 1-hour pre-bid meeting.

Deliverables:

- One electronic copy (.PDF format) of each addenda required to address bidder inquiries and questions
- One electronic copy (.PDF format) of meeting minutes from the pre-bid meeting for the City's records
- Conformed Drawings - one electronic copy (.PDF format), one full size hard copy, one half size hard copy and one hard copy of specifications; all unbound for reproduction

Task 200 Exemptions:

In an effort to clearly define efforts that are not included in this scope or fee, Hazen has identified the following exemptions:

- Changes to the design directives defined in the by the City of Denton which include:
 - Property location;
 - Size of the storage facility or pump station; and
 - Flows diverted from Hickory Creek Interceptor
- Additional time that would be encountered due to stoppages/delays in the design process of over 9 months.
- Hydraulic modeling of the flows contributing to the Hickory Creek Interceptor SSOs.
- Flow monitoring in the existing sewer system or creek.
- Mechanical ventilation (other than foul air exhaust) for the storage basin and pump station wet well.
- Permanent standby generator at the Hickory Creek Site. (design will allow flexibility for a future permanent standby generator to be installed)
- Screening or grinders at the storage facility or pump station.
- Site buildings for electrical, operations, maintenance, etc.
- Restroom facilities including sanitary waste and ventilation design and domestic water service and water heating for the site.
- Clean up of contaminated materials
- Advanced restoration features.
- Pedestrian or vehicular bridges or railroad crossing.
- Alternative energy design including geothermal, solar panels, hydroelectric power, wind, etc.
- Detailed site utilization studies (architectural building placement).
- Arc Flash Analysis (to be provided by contractor at construction completion based on electrical system installed, specification provided to contractor for direction).
- SCADA/PLC programming.
- Front-end documents other than bid proposal, bid form, special provisions, and technical specifications.
- Energy certification/commissioning- LEED, USGBC, Energy Star, Etc.
- Building energy modeling reports.
- Utility cost modeling.
- NTCOG and ISWM storm water requirements.
- Access paving between the railroad and the storage tank site.

Additional Task A1: Foundation Design with Piles (not included in fee)

Upon receipt and review of the site geotechnical investigation the ENGINEER will determine whether a pile foundation support system is required for the project. The pile foundation support system will also require the ENGINEER to provide a more detailed foundation system.

Additional subtask activities include:

- Design of foundation support piles
- Details for the foundation system
- Three (3) structural sheets for the pile plan and foundation section and details

- Coordination meeting with the contractor during construction prior to pile construction
- Pile and foundation submittal reviews
- Response to requests for information by the contractor specific to the pile plan and foundation details
- Site visit and inspection by the ENGINEER during the pile construction

Meetings:

- One, one (1) hour meeting with the contractor during construction to review pile construction
- One, two (2) hour site visit for installation inspection

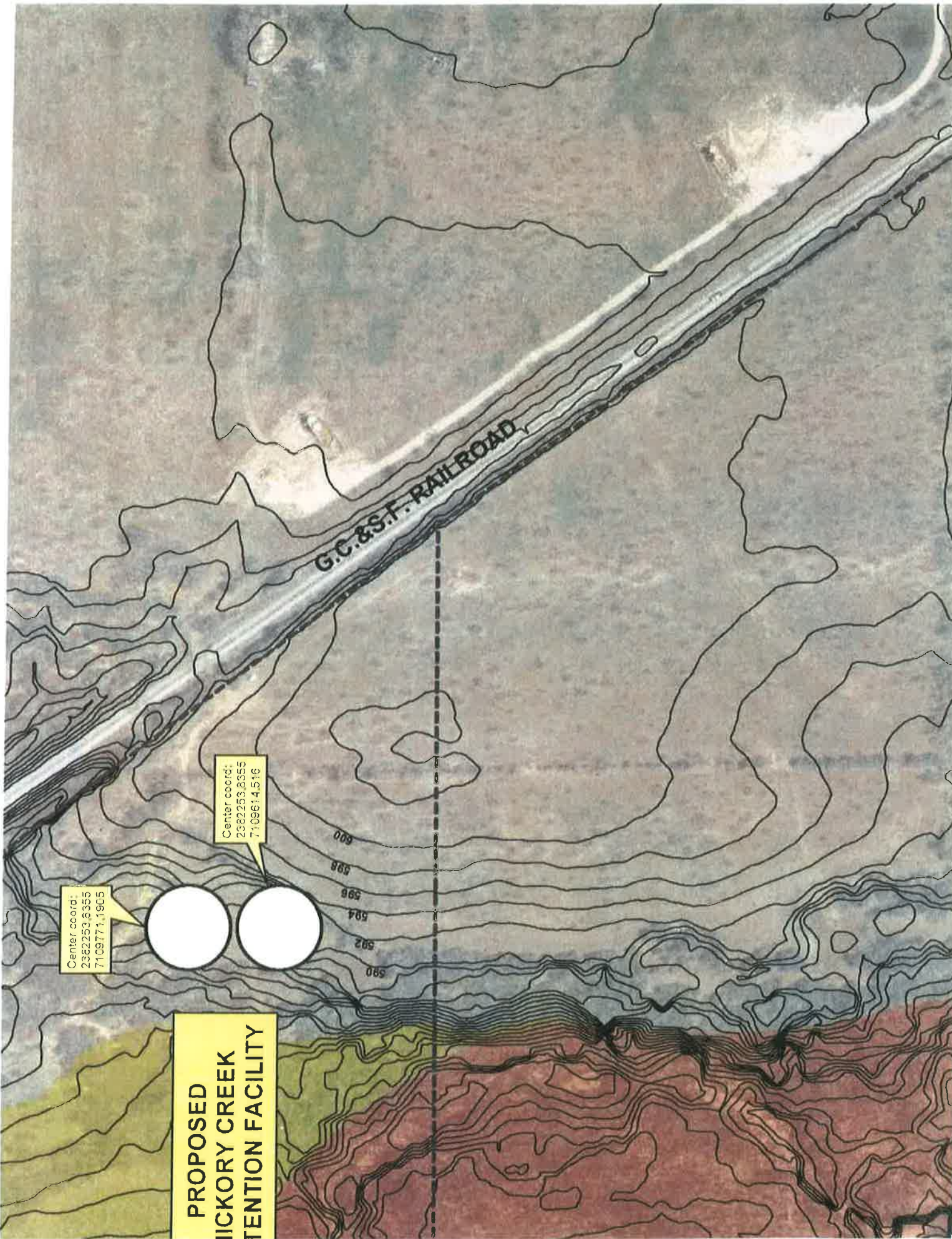
Deliverables:

- Three (3) additional structural sheets as part of the design package

Schedule

The proposed project schedule is based on cumulative time for each task based on ENGINEER receipt of the Notice to Proceed. Project timeline assumes a one week review period for all deliverables and information / field verification requests to the City in house resources are returned within two weeks of request. Key project elements and associated timeline include the following:

Task/Milestone	Calendar Days from NTP:
Kickoff Meeting	14
Design Basis Tech. Memo. Draft	90
Design Basis Tech. Memo. Final	105
50% Design Submission	165
90% Design Submission	228
100% / Bid Set Submission	273 (9 months)
Bid Award	329
Construction Admin.	875 (27 months)



**PROPOSED
HICKORY CREEK
RETENTION FACILITY**

Center coord:
2382253.6355
7109771.1905

Center coord:
2382253.6355
7109614.516

Contract # 5768
Exhibit B
Engineer's Standard
Hourly Rates for
Additional Services only

**ATTACHMENT B
LABOR CATEGORY RATES**

**CITY OF DENTON
HICKORY CREEK PEAK FLOW DETENTION FACILITY
DESIGN SERVICES**

I. Labor Category Rate

Labor Category Rate as presented in the rate schedule table below is the rate for each labor category performing the work and includes all direct salaries, overhead, and profit for this project.

Labor Category	2015-2016 Rate (\$/hour)
VP – Vice President	285
SA – Senior Associate	210
A – Associate	180
SPE – Senior Project Engineer	160
PE – Project Engineer	130
E – Engineer	110
D – Designer / CADD	90
Admin – Administrative Assistant	70

Attachment C
Contract # 5768
Awarded Contractor
Documentation



City of Denton Purchasing
901-B Texas St. Denton, TX 76209
Phone: (940) 349-7100 Fax: (940) 349-7302
www.dentonpurchasing.com

Substitute W-9 Form

The IRS requires all vendors to complete a W-9 Form. The information on this form must be filled out, signed and submitted by a vendor representative. All information must be completed before a purchase order or payment will be issued.

Name as shown on your income tax return:

Hazen and Sawyer

Tax ID/Social Security #:

13-2904652

Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a US citizen or other U.S. person-for federal tax purposes as defined at the bottom of this page*.

Authorized Signature:

Printed Name:

YIN CHIU

Mailing Address:

Company Name: Hazen and Sawyer, P.C

Email: bmiller@hazenandsawyer.com

Contact Name: Brandt Miller

Website:

Address: 8350 North Central Expressway
Suite 775

Phone Number: 214-382-5750

Fax Number:

Dallas, TX 75206

Check appropriate box for federal tax classification (required):

<input type="checkbox"/> Individual/ Sole Proprietor	<input type="checkbox"/> Corporation Must designate C or S <input type="checkbox"/> C <input checked="" type="checkbox"/> S	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Corporation	<input type="checkbox"/> Other Please specify: _____
<input type="checkbox"/> Exempt Payee				

Business Type:	<input type="checkbox"/> Real Estate Rental/Lease (A-1)	<input type="checkbox"/> Equipment Rental/Lease (A-9)	<input type="checkbox"/> Royalties (A-2)	<input type="checkbox"/> Medical/Health Care (A-8)
	<input type="checkbox"/> Services Only (A-7)	<input type="checkbox"/> Merchandise- Goods Only (A-7)	<input type="checkbox"/> Merchandise & Services (A-7)	<input type="checkbox"/> Legal Firm/Attorney (A-C)
	<input checked="" type="checkbox"/> Consultant/Prof Fees (A-7)	<input type="checkbox"/> Proceeds from Real Estate Purchases (S)		

Type of Organization:	<input type="checkbox"/> Minority Owned	<input type="checkbox"/> Female Owned	<input type="checkbox"/> Non Profit	<input type="checkbox"/> Historically Underutilized Business
-----------------------	--	---------------------------------------	-------------------------------------	---

*Definition of a U.S. Person-For Federal Tax purposes, you are considered a U.S. person if you are: (a) an individual who is a U.S. citizen or U.S. resident (b) a partnership, corporation, company, or association created or organized in the United States or under the laws of the United States (c) an estate (other than a foreign estate), or (d) a domestic trust (as defined in Regulations Section 301.7701-7).

Vendor Information Not Required for W-9 Form

Remit Address (if different from above)

Company Name: Hazen and Sawyer
Contact Name: Yin Chiu
Address: 498 Seventh Ave
11th Floor
New York, NY 10018
Email: ychiu@hazenandsawyer.com
Phone Number: 212-539-7090
Fax Number: _____

ACH Information-Voluntary

ABA Routing#: _____
Contact Name: _____
Bank Account#: _____
Bank Name: _____
ACH Email: _____
ACH Email: _____
Phone Number: _____
Fax Number: _____

I (we) authorize the City of Denton to deposit payments into the checking account listed. The authority remains in effect until the City of Denton has received written notification from me of termination in time to allow reasonable opportunity to act on it, or until the City of Denton has sent me written notice of termination of the agreement.

Vendor Signature _____

Print Name/Title _____

Date _____

List Products and/or Services Interested in Bidding:

For Internal Use Only

- ☐ New Vendor
☐ Vendor Change
☐ Refund

Vendor Number

Requesting Department: _____

Date: _____

Department Representative (Printed Name) _____

Purchasing Signature: _____

Date: _____

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. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

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

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

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 the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name of local government officer with whom filer has an employment or business relationship.

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the filer 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 filer of the questionnaire?

☐

Yes

☐

No

B. Is the filer of the questionnaire 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 10 percent or more?

☐

Yes

☐

No

D. Describe each affiliation or business relationship.

4 ☒ I have no Conflict of Interest to disclose.

5 Chander Dussanayake
Signature of person doing business with the governmental entity

7/9/2015
Date

ORDINANCE NO. 2016-098

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE HICKORY CREEK BASIN PEAK FLOW FACILITY, BY AND BETWEEN HAZEN AND SAWYER, P.C. AND THE CITY OF DENTON, TEXAS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768 IN THE ADDITIONAL AMOUNT NOT-TO-EXCEED \$112,758; AGGREGATING A TOTAL NOT-TO-EXCEED \$540,126).

WHEREAS, on July 21, 2015, the City awarded a Professional Services Agreement (hereafter "Agreement") to Hazen and Sawyer, P.C. a Texas Corporation, located in Dallas, Texas in the amount of \$427,368 to provide the City with professional engineering and design services pertaining to the design of the Hickory Creek Basin Peak Flow Facility; and

WHEREAS, the City staff has reported to the City Council that there is a substantial need for the hereinabove described professional services by the City of Denton, and that limited City staff cannot adequately perform the specialized engineering and other professional services and tasks, with its own personnel; and

WHEREAS, Chapter 2254 of the Texas Government Code, known as the "Professional Services Procurement Act," generally provides that a city may not select a provider of professional services on the basis of competitive bids, but must select the provider of professional services on the basis of demonstrated competence, knowledge, and qualifications, and for a fair and reasonable price; and

WHEREAS, the City Council hereby finds and concludes that Hazen and Sawyer, P.C. is appropriately qualified under the provisions of the law, to be retained as a design firm for the City, respecting this engagement; and

WHEREAS, the City Council has provided in the City budget for the appropriation of funds to be used for the procurement of the foregoing professional services, as set forth in the "First Amendment to Agreement for the Design of the Hickory Creek Basin Peak Flow Facility;" NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations contained in the preamble hereto are true and correct and are incorporated herewith as a part of this Ordinance.

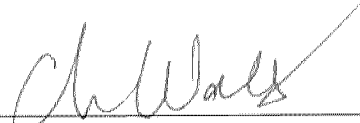
SECTION 2. The City Manager is hereby authorized to execute a "First Amendment to Agreement for Professional Services" (the "First Amendment") with the firm of Hazen and Sawyer, P.C., in the additional amount of not-to-exceed \$112,758, for professional services pertaining to the interests of the City as hereinabove described, in substantially the form of the First Amendment which is attached hereto as Exhibit "A" which is incorporated herewith by reference. The total purchase order amount therefore increases to the not-to-exceed amount of \$540,126.

SECTION 3. The award of this First Amendment is on the basis of the demonstrated competence and qualifications of the firm of Hazen and Sawyer, P. C., and the ability of Hazen and Sawyer, P.C. to perform the professional services needed by the City for a fair and reasonable price.

SECTION 4. The expenditure of funds as provided for in the attached First Amendment is hereby authorized.

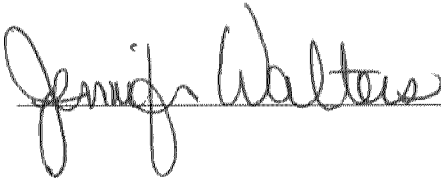
SECTION 5. This ordinance shall become effective upon its passage and approval.

PASSED AND APPROVED this the 5th day of April, 2016.

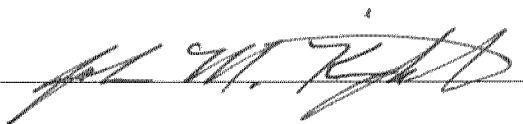


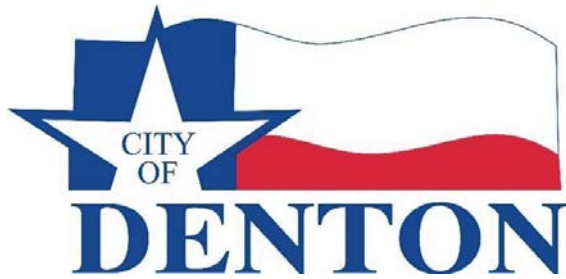
CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By: _____



DocuSign City Council Transmittal Coversheet

FILE	5768
File Name	Amendment #1 - Hazen & Sawyer design of West Peak Flow Pump Station
Purchasing Contact	Rebecca Hunter
City Council Target Date	4/5/2016
Granicus #	
Ordinance #	

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER, P.C.
[RFP NO. 5768]

THIS FIRST AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer, P.C. (“Contractor”);

The original Agreement provided for Hazen and Sawyers’ services related to design of the Hickory Creek Peak Flow Detention Facility as is contained in Contract #5768 (on file in the Purchasing Office). The initial agreement for the Basic Services – (Exhibit A), was approved on July 21, 2015, in the not-to-exceed amount of **\$427,368**.

The CITY deems it necessary to further expand the goods/services provided by CONTRACTOR to the CITY;

NOW THEREFORE,

Section 2 “Compensation”, is modified to include Exhibit A. This modification includes Design of the Pecan Creek Water Reclamation Plant West Peak Flow Pump Station in the amount of **\$112,758** with a revised not-to-exceed total of **\$540,126**.

All other provisions of the contract 5768, as heretofore amended, remain in full force and effect.

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

April 5, 2016

_____.

“CITY”

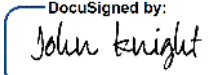
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: 
4884E925F0E6480...
GEORGE C. CAMPBELL, CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: 
C5BFAFC1821946D...

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By: 
C821996C2A2B439...

“CONTRACTOR”

HAZEN AND SAWYER, P.C.

By: 
DEF52433A8C0487...
AUTHORIZED SIGNATURE, TITLE

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

February 18, 2016

P.S. Arora, P.E.
Assistant Director of Wastewater Utilities
City of Denton
901-A Texas Street
Denton, TX 76209

Re: Scope of Work – Design of the Pecan Creek Water Reclamation Plant West Peak Flow Pump Station

Dear Mr. Arora:

In response to your request, Hazen has developed a scope and level of effort for the design of a peak flow diversion pump station located at the Pecan Creek Water Reclamation Plant. The purpose of the pump station is to divert peak flows from the Pecan Creek Interceptor into the existing diurnal basin and connected equalization basin to manage peak flows during a 5-year design storm for the planning year 2033. The City has evaluated the wet weather conditions using the existing InfoWorks model and determined that a 30 million gallon per day (mgd) pump station is required to divert flow to the 11 million gallons of existing onsite combined storage. Some modifications are anticipated at the onsite combined storage basins to implement the future flow diversion strategy.

Hazen will include the following features with the conveyance system and storage basin designs:

- One (1) weir diversion structure with a common wall to the proposed peak flow diversion pump station wet well
- One (1) new permanent vehicle access drive from the existing road at PCWRP to the pump station and diversion structure
- One (1) 30 MGD firm capacity pump station with constant speed non-clog submersible pumps, pump retrieval system, piping, valves and appurtenances
- Additional lighting near the pump station
- Pump station level monitoring
- Electrical utility service coordination for new transformers/power supply.
- Outdoor rated electrical equipment for the new pump station (no electrical building); similar to the existing PCWRP East Peak Flow Pump Station

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

Task 100: Investigation and Preliminary Engineering Services

Task 101: Review Existing Information and Basis of Design Confirmation

ENGINEER will review information provided by the City related to the design of the Pecan Creek Peak Flow Pump Station including, but not limited to:

- Pecan Creek WRF Record Drawings
- City of Denton InfoWorks Model Outputs for the Design Storm(s)
- Existing utility information including power supply, voltage, capacity, etc.
- Relevant City of Denton Design Criteria Manuals and Development Code Requirements

ENGINEER will review existing information and confirm that the necessary background information meets design needs. The ENGINEER will use the existing City of Denton InfoWorks model outputs to confirm the design criteria with a more detailed design evaluation of varying storm events, storage sizes and pumping rates.

Scope Item Assumptions:

- City will provide existing datum and monument information.
- Record drawing files will be provided in .PDF or .JPEG format by the City
- City will provide InfoWorks model outputs required to define the basis of design. Engineer assumes no liability for City's InfoWorks model outputs.

Meetings:

- One hour meeting with the City engineer to confirm necessary storm scenarios and InfoWorks outputs

Deliverables:

- Data request letter transmitted electronically in PDF format.

Subtask 102: Geotechnical Investigation

ENGINEER will perform a site specific geotechnical investigation including coordination with the geotechnical investigation sub-consultant, review and analysis of the geotechnical investigation report, and summary of design requirements.

Scope Item Assumptions:

- A total of one (1) boring for the pump station and diversion structure facility; assumed to be a common structure

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

A written report will be provided summarizing the geotechnical findings with all the required information for design, including, but not limited to:

- Foundation recommendations
- Groundwater table conditions
- Pipe bedding recommendations
- Soil characteristics such as allowable bearing pressure, lateral earth pressure, subsurface soil profile, etc.
- Seismic parameters

All site activities will be coordinated with the City and in accordance with the City's agreements with adjacent property owners.

Meetings:

- One hour meeting on site with the geotechnical investigator to coordinate location and requirements

Deliverables:

- One electronic (.PDF format) and three (3) hard copies of the geotechnical investigation report.

Subtask 103: Basis of Design Technical Memorandum

ENGINEER will perform a preliminary design of the siting and location of access roads, diversion structure location, pump station, yard piping layout and all related appurtenances. Preliminary analysis will determine impacts to surrounding environmental resources such as encroachments to floodplain and stream buffer boundaries, as well as determine overall project footprint and the necessary regulatory permits required for environmental and construction compliance. The memorandum will include basis of design summaries for each discipline based on the preliminary design activities.

Subtask activities will include:

- Performing a code review to determine permit, easement and regulatory requirements that impact the facility for impacted disciplines
- Perform a geotechnical investigation including one bore at the location for the pump station and diversion structure
- Perform site survey in the area designated for the peak flow pump station; approximately one acre total including tree location
- Preparing discipline design basis summaries that are to include the following areas:
 - General – Hydraulic profile and process flow schematic
 - Civil – Site Work and Yard Piping
 - Preliminary site grading
 - Determination of total project footprint and impact for the performance of topographical survey

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

- Compliance with TPDES General Permit for stormwater discharges during construction
- Compliance with City of Denton Site Design and Drainage Design Criteria
- Coordination with the Corp of Engineers is not included as part of this project scope with the assumption that the improvements will not impact the flood plain or existing Endangered Species Act (ESA) areas.
- Determining best source of wash down hose bibs, either potable water or plant service water, and tap in location
- A preliminary site plan showing preliminary location of above grade facilities, pipeline alignments and road way access, power easement, etc.
- A preliminary site grading and drainage plan showing revised site contours
- List of anticipated required project permits; if applicable
- Structural
 - Foundation type and subgrade requirements for major facilities based on results of the geotechnical investigation
- Mechanical
 - Summary of hydraulic calculations required to optimize pipeline sizes, pump capacity, energy, wet well size, etc.
 - A hydraulic profile
 - Confirm operational philosophy with constant speed pumps. As requested, VFD analysis is not included as part of this evaluation.
- Electrical and Instrumentation
 - Site electrical requirements including incoming service, power distribution, backup power requirements, materials of construction, and identification of equipment manufacturers
 - Provisions for a portable emergency generator connection which would allow for a standby generator to be installed in the future
 - Preliminary control philosophy
 - City's power supply delivery plan and scope summary
 - Preliminary site lighting plan description
 - Electrical one line diagram
 - Bottom half of the P&ID

Meetings:

- One, 1-hour meeting to review the draft technical memorandum and receive the City's review comments

Deliverables:

- Description of basis of design will be included as part of the draft and final preliminary design deliverables for the Hickory Creek Peak Flow Detention Facility.



Task 200: Detailed Design and Bid Phase Services

Subtask 201: 50-Percent Design

ENGINEER will perform the necessary design calculations, agency coordination, development of plans, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 50% level design detailed below.

Subtask activities will include:

- Preparing the 50% design drawings which will contain the following in general:
 - General Sheets
 - Civil – existing plan (identifies horizontal and vertical control information, existing easements, flood plain, flood way, setbacks and buffers, existing facilities, roads, etc.), existing grading, proposed facility plan, proposed site grading plan, proposed site paving plan, proposed yard piping plan, force main plans and profiles, site erosion and sediment control plan, storm water control plan and standard details.
 - Mechanical – facility plans and primary sections (pump station, miscellaneous improvements at the diurnal basin, etc.), and initial standard details
 - Structural – general notes, facility plans and primary sections, and standard details
 - Electrical – general notes, single line diagrams, proposed site plan, lighting plan, power plan, electrical equipment elevations and standard details
 - Instrumentation – symbols and diagrams, piping and instrumentation diagrams, system block diagrams, and standard details
- Prepare 50% technical specifications for all disciplines
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 50% level design
- Coordinate front end documents with the overall project
- Conduct an internal milestone quality control review
- Perform a 50% internal constructability review
- Perform a 50% internal interdisciplinary coordination workshop
- Review the 50% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 50% design submittal review and City comment workshop

Deliverables:

- Deliverables will be included as part of the Hickory Creek Peak Flow Detention Facility deliverables

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

Subtask 202: 90-Percent Design

ENGINEER will perform necessary design calculations, agency coordination, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 90% level design detailed below.

Subtask activities will include:

- Incorporating City's 50% comments.
- Develop the 50% drawings developed to a 90% design level. The content of the 90% design includes:
 - Civil– additional erosion control measures, staking data, contractor staging area, laydown areas, and other pertinent project specific details
 - Structural– facility sections, foundation schedules, special inspection requirements and project specific details
 - Mechanical –Miscellaneous detail annotation, piping, valves, construction notes, sequence of work, elevations, etc. Additional plans and sections will be added as necessary to clarify design intent.
 - Electrical – duct bank schedules, grounding plans, riser diagrams, control one line diagrams, conduit and wire schedules and project specific details
 - Instrumentation – project specific details
- Prepare 90% technical specifications for all disciplines including bidding and contract requirements and existing infrastructure tie in requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 90% level design
- Coordinate front-end documents from the City
- Conduct an internal milestone quality control review
- Perform a 90% internal interdisciplinary coordination workshop
- Review the 90% construction package with the client in a workshop format to obtain comments and feedback

Meetings:

- One, 2-hour 90% design submittal review workshop

Deliverables:

- Deliverables will be included as part of the Hickory Creek Peak Flow Detention Facility deliverables

Subtask 203: 100-Percent / Bid Set

ENGINEER will develop bid ready construction documents set including drawings, technical specifications and an AACE Class 1 Opinion of Probable Construction Cost estimate.

EXHIBIT A



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

Subtask activities will include:

- Incorporating the City's 90% review comments.
- Preparing the bid ready design drawings using the 90% documents
- Prepare bid ready technical specifications for all disciplines including final bidding and contract requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on bid level design
- Finalize front-end documents with the City

Meetings:

- None.

Deliverables:

- Deliverables will be included as part of the Hickory Creek Peak Flow Detention Facility deliverables

Subtask 204: Bid Phase

The ENGINEER will provide bid phase services including attending the pre-bid meeting, answering contractor questions and inquiries through written addenda, reviewing the bid submissions and providing any additional recommendations required by the City.

Assumptions:

- All assumptions outlined as part of the Hickory Creek Peak Flow Detention Facility are applicable as the PCPFPS package will be bid with the Hickory Creek Peak Flow Detention Facility.
- ENGINEER will perform the same tasks outlined in the Hickory Creek Peak Flow Detention Facility scope in relation to the PCPFPS. This project will not require duplication of activities between the two projects other than additional effort to clarify design intent of the new pump station

Meetings:

- Included as part of the Hickory Creek Detention Facility; additional meetings for the PCPFPS are not included as part of the scope.

Deliverables:

- Deliverables will be included as part of the Hickory Creek Peak Flow Detention Facility deliverables



City of Denton
Pecan Creek Water Reclamation Plant
West Peak Flow Pump Station

Task 200 Exemptions:

In an effort to clearly define efforts that are not included in this scope or fee, Hazen has identified the following exemptions:

- Changes to the design directives defined by the City of Denton which include:
 - Property location;
 - Capacity of the pump station; and
 - Flows diverted from Pecan Creek Interceptor
- Additional time that would be encountered due to stoppages/delays in the design process of over 9 months
- Hydraulic modeling of the flows contributing to the Pecan Creek Interceptor SSOs
- Flow monitoring in the existing sewer system
- Mechanical ventilation for the pump station wet well
- Foul air exhaust and odor control system
- Permanent standby generator at the Pecan Creek WRP
- Screening or grinders at the pump station
- Site buildings for electrical, operations, maintenance, etc.
- Restroom facilities including sanitary waste and ventilation design and domestic water service and water heating for the site.
- Clean up of contaminated materials
- Advanced restoration features
- Pedestrian or vehicular bridges or railroad crossing
- Alternative energy design including geothermal, solar panels, hydroelectric power, wind, etc.
- Detailed site utilization studies (architectural building placement)
- Arc Flash Analysis (to be provided by contractor at construction completion based on electrical system installed, specification provided to contractor for direction)
- SCADA/PLC programming
- Front-end documents other than bid proposal, bid form, special provisions, and technical specifications.
- Energy certification/commissioning- LEED, USGBC, Energy Star, Etc.
- Building energy modeling reports
- Utility cost modeling
- NTCOG and iSWM storm water requirements
- Coordination with the USACE for flood plain or ESA requirements
- Construction phase services

Very truly yours,

Brandt Miller, PE
Project Manager

[illegible]

Hazen

2/18/2016

67

EXHIBIT C



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Feet

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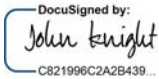
Certificate Of Completion

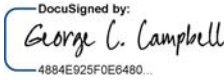
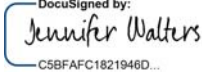
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Source Envelope:	
Document Pages: 14	Signatures: 4
Certificate Pages: 6	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Rebecca Hunter
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	rebecca.hunter@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

Status: Original	Holder: Rebecca Hunter	Location: DocuSign
3/29/2016 7:30:10 AM	rebecca.hunter@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Rebecca Hunter rebecca.hunter@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	Completed Using IP Address: 129.120.6.150	Sent: 3/29/2016 8:58:56 AM Viewed: 3/29/2016 8:59:09 AM Signed: 3/29/2016 9:00:24 AM
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John Knight john.knight@cityofdenton.com Deputy City Attorney City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	 Using IP Address: 129.120.6.150	Sent: 3/29/2016 9:10:41 AM Viewed: 3/29/2016 10:04:40 AM Signed: 3/29/2016 10:05:37 AM
Julia Winkley julia.winkley@cityofdenton.com Contracts Administration Supervisor City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	Completed Using IP Address: 129.120.6.150	Sent: 3/29/2016 10:05:41 AM Viewed: 3/29/2016 10:21:27 AM Signed: 4/5/2016 2:29:32 PM

Signer Events	Signature	Timestamp
<p>George C. Campbell george.campbell@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<p>DocuSigned by:  4884E925F0E6480...</p> <p>Using IP Address: 129.120.6.150</p>	<p>Sent: 4/5/2016 2:29:38 PM Viewed: 4/18/2016 9:18:36 AM Signed: 4/18/2016 9:18:47 AM</p>
<p>Jennifer Walters jennifer.walters@cityofdenton.com City Secretary City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<p>DocuSigned by:  C5BFAFC1821946D...</p> <p>Using IP Address: 129.120.6.150</p>	<p>Sent: 4/18/2016 9:18:51 AM Viewed: 4/22/2016 12:01:04 PM Signed: 4/22/2016 12:01:25 PM</p>
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Editor Deliver Events	Status	Timestamp
Agent Deliver Events	Status	Timestamp
Intermediary Deliver Events	Status	Timestamp
Certified Deliver Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
<p>Julia Winkley julia.winkley@cityofdenton.com Contracts Administration Supervisor City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<div>COPIED</div>	<p>Sent: 3/29/2016 9:10:39 AM</p>
<p>Sherri Thurman sherri.thurman@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<div>COPIED</div>	<p>Sent: 3/29/2016 9:10:40 AM</p>
<p>Robin Fox Robin.fox@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Accepted: 10/9/2015 11:39:51 AM ID: 04463961-03db-4c4d-9228-d660d6146ed6</p>	<div>COPIED</div>	<p>Sent: 4/5/2016 2:29:36 PM</p>
<p>Jane Richardson jane.richardson@cityofdenton.com Security Level: Email, Account Authentication (Optional)</p>	<div>COPIED</div>	<p>Sent: 4/5/2016 2:29:38 PM Viewed: 4/7/2016 6:50:25 AM</p>

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<p>Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p> <p>Jennifer Bridges jennifer.bridges@cityofdenton.com Procurement Assistant City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p> <p>P.S. Arora P.S.Arora@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p> <p>Jane Richardson jane.richardson@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<div>COPIED</div> <div>COPIED</div> <div>COPIED</div>	<p>Sent: 4/22/2016 12:01:29 PM Viewed: 4/27/2016 7:33:09 AM</p> <p>Sent: 4/22/2016 12:01:31 PM Viewed: 4/22/2016 12:35:05 PM</p> <p>Sent: 4/22/2016 12:01:34 PM</p>
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Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

To contact us by email send messages to: kevin.gunn@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 kevin.gunn@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

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

To request paper copies from City of Denton

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to kevin.gunn@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 kevin.gunn@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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE 2017-034

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, AUTHORIZING THE APPROVAL OF A SECOND AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND HAZEN AND SAWYER, P.C. FOR THE DESIGN OF THE HICKORY CREEK BASIN PEAK FLOW DETENTION FACILITY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768—PROVIDING FOR AN ADDITIONAL EXPENDITURE AMOUNT NOT-TO-EXCEED \$192,239, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$732,365).

WHEREAS, on July 21, 2015, the City awarded a Professional Services Agreement (hereafter “Agreement”) to Hazen and Sawyer, P.C. a Texas Corporation, located in Dallas, Texas, in the amount of \$427,368 to provide the City with professional engineering and design services pertaining to the design of the Hickory Creek Basin Peak Flow Facility; and

WHEREAS, on April 5, 2016, the City approved an amended Professional Services Agreement with Hazen and Sawyer, P.C., (hereafter the “First Amendment”) in the further amount of \$112,758 aggregating a not-to-exceed amount of \$540,126 to provide the City with additional services pertaining to the design of the Hickory Creek Basin Peak Flow Facility; and

WHEREAS, there appears to the Council that further professional services must be completed; and the City Manager having recommended to the Council that the “Second Amendment to Professional Services Agreement with Hazen and Sawyer, P.C. (hereafter the “Second Amendment”) be authorized to amend such Agreements, with respect to the scope of work and an increase in the payment amount by \$192,239; and said fees under the proposed Second Amendment 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,

WHEREAS, the City staff has reported to the City Council that there is a substantial need for the hereinabove described professional services by the City of Denton, and that limited City staff cannot adequately perform the specialized engineering and other professional services and tasks, with its own personnel; and

WHEREAS, Chapter 2254 of the Texas Government Code, known as the “Professional Services Procurement Act,” generally provides that a city may not select a provider of professional services on the basis of competitive bids, but must select the provider of professional services on the basis of demonstrated competence, knowledge, and qualifications, and for a fair and reasonable price; and

WHEREAS, the City Council hereby finds and concludes that Hazen and Sawyer, P.C. is appropriately qualified under the provisions of the law, to be retained as a design firm for the City, respecting this engagement; and

WHEREAS, the City Council has provided in the City budget for the appropriation of funds to be used for the procurement of the foregoing professional services, as set forth in the "Second Amendment to Agreement for the Design of the Hickory Creek Basin Peak Flow Facility;" NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations contained in the preamble hereto are true and correct and are incorporated herewith as a part of this Ordinance.

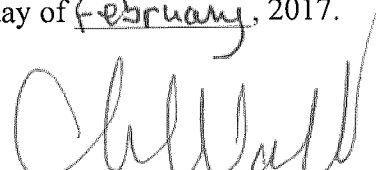
SECTION 2. The City Manager is hereby authorized to execute a "Second Amendment to Agreement for Professional Services" (the "Second Amendment") with the firm of Hazen and Sawyer, P.C., in the additional amount of not-to-exceed \$192,239, for professional services pertaining to the interests of the City as hereinabove described, in substantially the form of the Second Amendment which is attached hereto as Exhibit "A" which is incorporated herewith by reference. The total purchase order amount therefore increases to the not-to-exceed amount of \$732,365.

SECTION 3. The award of this Second Amendment is on the basis of the demonstrated competence and qualifications of the firm of Hazen and Sawyer, P. C., and the ability of Hazen and Sawyer, P.C. to perform the professional services needed by the City for a fair and reasonable price.

SECTION 4. The expenditure of funds as provided for in the attached Second Amendment is hereby authorized.

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

PASSED AND APPROVED this the 7 day of February, 2017.

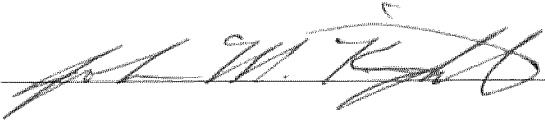


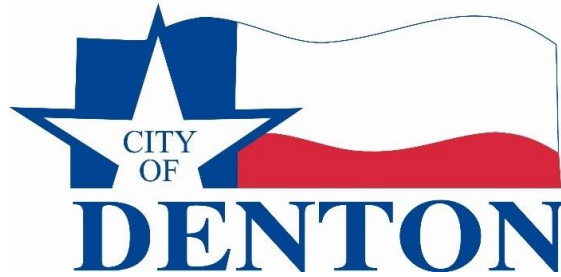
CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: Jane Richardson, Asst.

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By: 



DocuSign City Council Transmittal Coversheet

RFQ	5768
File Name	5768 Hickory Creek Peak Flow Detention Facility
Purchasing Contact	Cindy Alonzo, Robyn Forsyth
City Council Target Date	February 7, 2017
Contract Value	\$732,365
Piggy Back Option	no
Contract Expiration	N/A

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

SECOND AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER, P.C.
[RFQ NO. 5768]

THIS SECOND AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer, P.C. (“Contractor”);

The original Agreement provided for Hazen and Sawyers’ services related to design of the Hickory Creek Peak Flow Detention Facility as is contained in Contract #5768 (on file in the Purchasing Office). The initial agreement for the Basic Services – (Exhibit A), was approved on July 21, 2015, in the not-to-exceed amount of **\$427,368**.

The CITY deems it necessary to further expand the goods/services provided by CONTRACTOR to the CITY;

NOW THEREFORE,

Section 2 “Compensation”, is modified to include Exhibit B. This modification includes Design of the Hickory Creek Lift Station for the Hickory Creek Detention Facility in the amount of **\$192,239** with a revised not-to-exceed total of **\$732,365**.

All other provisions of the contract 5768, as heretofore amended, remain in full force and effect.

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

2/8/2017
_____.

“CITY”

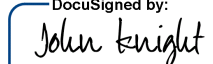
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By:  DocuSigned by:
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HOWARD MARTIN, CITY MANAGER

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By:  DocuSigned by:
C5BFAFC1821946D...

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By:  DocuSigned by:
C821996C2A2B439...

“CONTRACTOR”

HAZEN AND SAWYER, P.C.

By:  DocuSigned by:
DEF52433A6C0487... Vice President
AUTHORIZED SIGNATURE, TITLE

EXHIBIT B



Hazen and Sawyer
82350 North Central Expressway, Suite 775
Dallas TX 75206 • 214.382.5750

December 28, 2016

P.S. Arora, PE
General Manager of Wastewater Utilities
City of Denton
901A Texas Street
Denton, TX 76209

Re: ~~Attachment A~~ Contact 5768 Amended Scope of Work – Hickory Creek Peak Flow Detention Facility Drilled Pier Design, Road Staking and Hickory Creek Lift Station Replacement

Dear Mr. Arora:

This document provides details and assumptions for the scope of services to be amended to Contract 5768 including the design of drilled piers and road staking for the Hickory Creek Detention Facility and design of the Hickory Creek Lift Station Replacement.

Background and Overview:

Additional services are required as part of the design for the Hickory Creek Detention Facility including the design of a drilled pier foundation system due to the findings of the geotechnical investigation. The staking of the proposed road alignment to be constructed by the City was also requested as part of the contract.

The City of Denton (City) requested Hazen and Sawyer (Hazen) to design a new pump station to replace the existing Hickory Creek Lift Station. Hazen will include the following features with the Hickory Creek Lift Station Replacement Project:

- Yard piping – redirect incoming gravity lines to the new lift station and install a new force main from the lift station to the existing force main.
- Design new wet well structure to include a prefabricated circular wet well made out of either modular precast poly-concrete or fiberglass reinforced plastic approximately 16-foot diameter and 35-feet deep with a precast top and access hatches for maintenance.
- Perform geotechnical investigation including 1 boring in the area proposed for the new wet well.
- Process mechanical improvements include:
 - Isolation of the existing lift station and diverting gravity flow lines to the new lift station. Modification of existing building and demolition/ decommissioning of the station is not considered as part of this scope.
 - Installation of three new submersible solids handling style pumps – two duty and one standby, capable of pumping 4 to 8-MGD each at approximately 172-ft total dynamic head (380-400 Hp).
 - Design new discharge piping and valves. Valves include at a minimum: discharge isolation plug valves, discharge check valves and surge protection valve.



- Electrical:
 - Maintain existing electrical service to the existing building for lighting and ventilation loads.
 - Coordinate with serving electric utility for a new service to a new prefabricated electrical building (Powercenter) complete with new electrical power distribution and control equipment for the new lift station.
 - Evaluate reliability of new service to meet the TCEQ 217.
 - Design new electrical power distribution system for the new lift station.
 - Provide connection for the City's portable generator.
 - Design the new motor control system for the three new pumps. At least two pumps will be controlled by variable frequency drives (VFDs). Control for the third pump will be decided during design based on the initial harmonics evaluation and cost for the additional VFD versus a constant speed starter. VFDs will be provided with bypass starters to control the pumps in the event of a VFD failure.
 - Design lighting systems for new pump station and necessary site lighting.
 - The electrical distribution system for the new lift station will be designed in compliance with NFPA 820: Standard for Fire Protection in Wastewater Treatment and Collection Facilities.
 - Perform initial harmonic study to determine the type of VFDs to be specified, and to determine if other harmonic mitigation measures will be required to meet IEEE 519.
- Instrumentation and Control improvements include:
 - Field instruments including wet well level sensor, pump pressure switches and new flow meter on force main.
 - Use existing SCADA pack as RTU and associated radio equipment.

Project Scope

Task 100: Investigation and Preliminary Engineering Services

Subtask 106: HCLS Preliminary Engineering (30% Design)

ENGINEER will perform the necessary design calculations, agency coordination, development of plans, basis of design documentation and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 30% level design detailed below. The preparation of a preliminary engineering report is not included as part of this task.

The City will provide, at a minimum, the following information:

- Relevant record drawings in PDF (AutoCAD basefiles are not available) for the HCLS, incoming interceptors and force main
- Drawing and physical information for the force main alignment changes and air release valve information

- Relevant City design standards and details

Subtask activities will include:

- Perform discipline design basis evaluation and calculations to include the following areas (summary and decisions relate to the concepts will be documented in meeting slides and minutes):
 - Civil –Yard Piping
 - Summarize the plan for re-directing incoming gravity lines to the new lift station (the current intent is not to use the existing wet well as a junction box to collect and re-direct flow to the new lift station)
 - Summarize concept for new force main additions
 - Survey of existing site
 - Structural
 - Summarize prefabrication option advantages, disadvantages, relative cost – fiberglass reinforce plastic versus poly-concrete
 - Process Mechanical
 - Surge calculations based on propose force main route
 - Passive odor control (carbon adsorber)
 - Electrical
 - Initiate contact with the serving electrical utility and identify new utility service requirements
 - Perform harmonics evaluation and provide recommendations for VFD type based on initial results.
 - Define approach to motor controls regarding the use of VFDs and constant speed starters.
 - Define approach to lighting system.
 - Define preferred electrical equipment manufacturers.
 - NFPA 820 design analysis.
 - Instrumentation and Control
 - Identify and define the SCADA system procurement and contract interface.
 - Preliminary list of points to be monitored by the SCADA system.
 - Pump/ Motor valve operation and control definition.
- Develop a construction sequence plan to keep the pump station operational during construction
- Preparing the 30% design drawings which will contain the following:
 - General Sheets.
 - Civil – existing site plan, proposed site plan
 - Structural– facility plans and primary sections
 - Mechanical – facility plans and primary sections
 - Electrical – legend and general notes, overall single line diagram, site plan, area classification plans, preliminary electrical building (Powercenter) layout
 - Instrumentation – symbols and diagrams, process and instrumentation diagram and functional control descriptions
- Prepare 30% technical specification list, pump specification and piping schedule
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 30% level design.



EXHIBIT B

P.S. Arora, PE
December 28, 2016

- Obtain standard front-end documents from the City and begin coordination with overall project.
- Conduct an internal milestone quality control review.
- Review the 30% design package with the client in a workshop format to obtain comments.

Meetings:

- One, 2-hour kickoff meeting to present, review design concepts and coordination
- One, 1-hour progress and coordination meeting is assumed.
- One, 2-hour 30% design submittal review and City comment workshop.

Deliverables:

- One electronic (.PDF format) copy and three hard copies of the 30% plans and specifications.
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records.

Task 200: Detailed Design and Bid Phase Services**Subtask 205: Hickory Creek Detention Facility Additional Services**

This task includes the design of a drilled pier foundation system for the Hickory Creek Detention Facility storage tank based on the findings from the geotechnical investigation. In addition, the City requested staking of the proposed access driveway to be constructed by the City. Additional subtask activities include:

- Design of foundation support piles
- Details for the foundation system
- Three (3) structural sheets for the pile plan and foundation section and details

*Meetings: None**Deliverables:*

- Three (3) additional structural sheets as part of the design package
- Road staking flags installed on Hickory Creek Detention Facility site

Subtask 206: HCLS 90-Percent Design

ENGINEER will perform necessary design calculations, agency coordination, specification development, manufacturer coordination and cost estimation in accordance with applicable Federal, State and local regulations in addition to the City's design standards. The level of detail will conform to industry standards for a 90% level design detailed below.



EXHIBIT B

P.S. Arora, PE
December 28, 2016

Subtask activities will include

- Incorporating City's 30% comments
- Preparing the 90% design drawings which comply with applicable Federal, State and Local regulations and the City's Standards. All 30% drawings developed to a 90% design level. The content of the set in addition to 30% design includes:
 - Civil – contractor staging area, laydown areas, and other pertinent project specific details
 - Structural– facility sections, special inspection requirements, wall sections, finish schedules, and project specific details
 - Mechanical – Develop additional mechanical design on 30% content to include, miscellaneous detail annotation, piping, valves, construction notes, sequence of work, elevations, etc. Additional plans and sections will be added as necessary to clarify design intent.
 - Electrical – duct bank routing and tables, control schematics, conduit and wire schedules and project specific details.
 - Instrumentation – project specific details, updated functional control descriptions, RTU requirements.
- Prepare 90% technical specifications for all disciplines including bidding and contract requirements and existing infrastructure tie in requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on 90% level design.
- Coordinate front-end documents from the City.
- Conduct an internal milestone quality control review.
- Perform a 90% internal interdisciplinary coordination workshop.
- Review the 90% design package with the client in a workshop format to obtain comments.

Meetings:

- One, 1-hour progress and coordination meeting is assumed.
- One, 2-hour 90% design submittal review workshop.

Deliverables:

- One electronic (.PDF format) copy and three hard copies of the 90% plans and specifications.
- One electronic (.PDF format) copy of the meeting minutes from the design review workshop, action item log and, client review comment log for the City's records.

Subtask 207: HCLS 100-Percent / Bid Set

ENGINEER will develop bid ready construction documents set including drawings, technical specifications and an AACE Class 1 Opinion of Probable Construction Cost estimate.

Subtask activities will include:

- Incorporating the City's 90% review comments.
- Preparing the bid ready design drawings using the 90% documents.



EXHIBIT B

P.S. Arora, PE
December 28, 2016

- Prepare bid ready technical specifications for all disciplines including final bidding and contract requirements.
- Prepare AACE Class 1 Opinion of Probable Construction Costs based on bid level design.
- Conduct an internal milestone quality control review.
- Finalize front-end documents with the City.
- Submission of bid set to TCEQ for review.

Meetings:

- None.

Deliverables:

- One electronic (.PDF format) copy of full size and half size drawings.
- One hard copy of half size drawings and technical specification. The hard copy set will be submitted unbound for easy reproduction by the City.
- One electronic (.PDF format) copy of the action item log, and client review comment log and for the City's records.

Subtask 208: HCLS Bid Phase

The ENGINEER will provide bid phase services including attending the pre-bid meeting, answering contractor questions and inquiries through written addenda, reviewing the bid submissions and providing any additional recommendations required by the City.

Assumptions:

- The City will provide electronic and hard copy bid documents to all interested bidders.
- The City will receive all questions and inquiries from contractors in writing and provide them to the ENGINEER for response.
- ENGINEER will keep record on questions and inquiries to be addressed from the pre-bid meeting.
- ENGINEER will prepare all addenda and provide electronic copies for the City to issue to bidders.
- ENGINEER will prepare the conformed documents after bid phase is completed.
- ENGINEER will not provide hard copy bid set drawings or specification to bidders.
- ENGINEER will provide hard copy conformed set of half size and full size drawings and specifications to the City unbound for easy reproduction by the City.

Meetings:

- One, 2-hour pre-bid meeting.



EXHIBIT B

P.S. Arora, PE
December 28, 2016

Deliverables:

- One electronic copy (.PDF format) of each addenda required to address bidder inquiries and questions.
- One electronic copy (.PDF format) of meeting minutes from the pre-bid meeting for the City's records.
- Conformed Drawings – one electronic copy (.PDF format), one full size hard copy, one half size hard copy and one hard copy of specifications; all unbound for reproduction.

Task 200 Exemptions:

In an effort to clearly define efforts that are not included in this scope or fee, Hazen has identified the following exemptions:

- Changes to the design directives defined in the basis of design
- Additional time that would be encountered due to stoppages/delays in the design process of over 10 months
- Bypass pumping coordination and design
- Building a surge model using field data and performing calibrations/ scenarios
- Hydraulic modeling of the collection system
- Flow monitoring in the existing sewer system or creek
- Site buildings for electrical, operations, maintenance, etc.
- Restroom facilities including sanitary waste and ventilation design and domestic water service and water heating for the site
- Clean up of contaminated materials
- Advanced restoration features
- Pedestrian or vehicular bridges or railroad crossing
- Alternative energy design including geothermal, solar panels, hydroelectric power, wind, etc.
- Arc Flash Analysis (to be provided by contractor at construction completion based on electrical system installed, specification provided to contractor for direction)
- SCADA/PLC programming
- Front-end documents other than bid proposal, bid form, special provisions, and technical specifications
- Energy certification/commissioning- LEED, USGBC, Energy Star, etc.
- Utility cost modeling
- NTCOG and iSWM storm water requirements
- Access paving
- Federal, State and local permitting

Schedule

The proposed project schedule is based on cumulative time for each task based on ENGINEER receipt of the Notice to Proceed. Project timeline assumes a one week review period for all deliverables and



EXHIBIT B

P.S. Arora, PE
December 28, 2016

information / field verification requests to the City in house resources are returned within two weeks of request. Key project elements and associated timeline include the following:

Task/Milestone	Months from NTP:
Kickoff Meeting	0.5 Months
30% Design Submission	3 months
90% Design Submission (assuming two weeks for City review)	6 months
100% Design Submission (assuming two weeks for City review)	7 months

Very truly yours

A handwritten signature in blue ink, appearing to read "B. Miller".

Brandt Miller, PE
Project Manager

Enclosure: Summary of fee

cc: Chamindra Dassanayake, PhD, PE

City of Denton
Hickory Creek Lift Station Replacement
Engineering Service Fee Breakdown / Details

EXHIBIT B



12/28/2016

TASK	Billable Rate =	PD	PM	Civil			Structural				Process Mechanical				Electrical			I&C		Const.	Total Hours	Fee				
		Project Director	Project Engineer	Technical Advisor	Project Engineer	Assistance Engineer	CADD	Technical Advisor	Senior Engineer	Assistant Engineer	CADD	Technical Advisor	Technical Advisor	Assistant Engineer	CADD	Senior Engineer	Project Engineer	Assistant Engineer	Senior Engineer	Project Engineer		Project Engineer	Labor	ODC	Sub	Subtotal
		\$ 285	\$ 138	\$ 285	\$ 138	\$ 96	\$ 128	\$ 208	\$ 192	\$ 112	\$ 96	\$ 224	\$ 211	\$ 118	\$ 128	\$ 230	\$ 134	\$ 96	\$ 176	\$ 112		\$ 208				
100. Investigation and Evaluation Services																										
106. HCLS Preliminary Engineering (30% Design)																										
Kickoff, coordination, basis of design development		1	16		4	6			4	8		16	1	16		2	32	16	4	4		130	\$ 18,422	\$ 250	\$ -	\$ 18,672
Drawings, Specifications, Cost Estimate			16		8	16	56		12	24	16			8	20		40	56	4	24		300	\$ 36,197	\$ -	\$ 8,000	\$ 44,197
QA/QC		1		2				2					2			6			2			15	\$ 3,428	\$ -	\$ -	\$ 3,428
Submission and Review Workshop		1	4			2			2					2		2	2	4	1			20	\$ 2,939	\$ 250	\$ -	\$ 3,189
200. Detailed Design and Bid Phase Services																										
205. Hickory Creek Detention Facility Additional Services																										
Drilled Pier Design and Road Staking		1	4					4	32	32	48											121	\$ 16,000	\$ -	\$ 3,520	\$ 19,520
206. HCLS 90-Percent Design																										
Drawings and Specifications			20		20	40	50		24	24	32		1	20	36		68	100	8	36		479	\$ 57,496	\$ 250	\$ -	\$ 57,746
Cost Estimate		1	4		2	4								4			2	4	1	2		24	\$ 3,022	\$ -	\$ -	\$ 3,022
QA/QC		1		1				1								16					4	23	\$ 5,298	\$ -	\$ -	\$ 5,298
Submission and Review Workshop		1	2		2	4			2					4			2	4				21	\$ 2,730	\$ 250	\$ -	\$ 2,980
207. HCLS 100 Percent / Bid Set Design																										
Drawings and Specifications			6		4	6	8		8	12	8			4	6	4	28	54	4	8		160	\$ 19,340	\$ 100	\$ -	\$ 19,440
Cost Estimate		1	2			2			1					2			1	2	1	1		13	\$ 1,796	\$ -	\$ -	\$ 1,796
208. HCLS Bid Phase																										
Pre-bid Meeting / Prep			8		2	2								8								20	\$ 2,516	\$ 100	\$ -	\$ 2,616
Addenda			4		4	8			4		2			8	4		4	8	1	2		49	\$ 5,995	\$ -	\$ -	\$ 5,995
Bid Review		1	2		2	2								8								15	\$ 1,975	\$ -	\$ -	\$ 1,975
Conformed Set			2		2		2		2		2				2		1	2	1	2		18	\$ 2,366	\$ -	\$ -	\$ 2,366
Hours Subtotal		9	90	3	50	92	116	7	91	100	108	16	4	84	68	30	180	250	26	77	4	1390				
Fee Subtotal																						\$ 179,519	\$ 1,200	\$ 11,520	\$ 192,239	


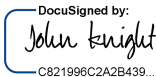
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Source Envelope:	
Document Pages: 12	Signatures: 4
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AutoNav: Enabled	Envelope Originator:
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Time Zone: (UTC-08:00) Pacific Time (US & Canada)	robyn.forsyth@cityofdenton.com
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John Knight john.knight@cityofdenton.com Deputy City Attorney City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	 Using IP Address: 129.120.6.150	Sent: 1/23/2017 8:46:13 AM Viewed: 1/25/2017 8:34:02 AM Signed: 1/25/2017 8:34:12 AM
Julia Winkley julia.winkley@cityofdenton.com Contracts Administration Supervisor City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	Completed Using IP Address: 129.120.6.150	Sent: 1/25/2017 8:34:14 AM Viewed: 1/25/2017 8:36:09 AM Signed: 2/8/2017 2:52:41 PM

Signer Events	Signature	Timestamp
<p>Todd Hileman todd.hileman@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Accepted: 2/8/2017 4:52:51 PM ID: 8154723a-9757-4d53-a4b5-794656233671</p>	<p>DocuSigned by: <i>Todd Hileman</i> B776C711BA0D454...</p> <p>Using IP Address: 71.170.47.194</p>	<p>Sent: 2/8/2017 2:52:44 PM Viewed: 2/8/2017 4:53:17 PM Signed: 2/8/2017 4:55:45 PM</p>
<p>Jennifer Walters jennifer.walters@cityofdenton.com City Secretary City of Denton Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:</p>	<p>DocuSigned by: <i>Jennifer Walters</i> C5BF4FC1821946D...</p> <p>Using IP Address: 129.120.6.150</p>	<p>Sent: 2/8/2017 4:55:47 PM Viewed: 2/9/2017 9:47:43 AM Signed: 2/9/2017 9:48:06 AM</p>
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Jane Richardson jane.richardson@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign ID:	COPIED	Sent: 2/9/2017 9:48:08 AM
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How to contact City of Denton:

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

To contact us by email send messages to: kevin.gunn@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 kevin.gunn@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 kevin.gunn@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 kevin.gunn@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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 19-1839

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A THIRD AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND HAZEN AND SAWYER, P.C., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JULY 21, 2015, IN THE NOT-TO-EXCEED AMOUNT OF \$427,368, AMENDED BY AMENDMENTS 1-2 APPROVED BY CITY COUNCIL; SAID THIRD AMENDMENT TO PROVIDE ADDITIONAL DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES FOR HICKORY CREEK BASIN PEAK FLOW DETENTION FACILITY, WEST PEAK FLOW STORAGE BASIN AND PEAK FLOW PUMP STATION, AND HICKORY CREEK LIFT STATION RECONSTRUCTION DESIGN; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768 – PROVIDING FOR AN ADDITIONAL THIRD AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$470,449, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,202,814).

WHEREAS, on July 21, 2015, by Ordinance No. 2015-205, the City awarded a contract to Hazen and Sawyer, P.C. in the amount of \$427,368 for the Hickory Creek Detention Facility project (HCDF); and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Third Amendment, increasing the amount of the contract between the City and Hazen and Sawyer, P.C., which is on file in the office of the Purchasing Agent, in the amount of Four Hundred Seventy Thousand Four Hundred Forty Nine and 00/100 (\$470,449) Dollars, is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment. The total contract amount increases to \$1,202,814.

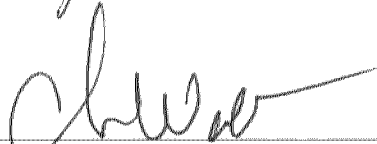
SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by John Ryan and seconded by Gerard Hudspeth, the ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Gerard Hudspeth, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Keely G. Briggs, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John Ryan, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

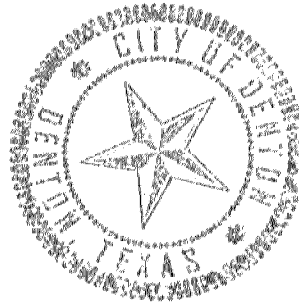
Deb Armintor, At Large Place 5: ✓
Paul Meltzer, At Large Place 6: ✓

PASSED AND APPROVED this the 13th day of August, 2019.


CHRIS WATTS, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 



Docusign City Council Transmittal Coversheet

PSA	5768
File Name	Design of Hickory Creek Basin Peak Flow Dentention Facility Amendment
Purchasing Contact	Jane Rogers
City Council Target Date	August 13, 2019
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	19-1839

**THIRD AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER P.C.
Contract 5768**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS THIRD AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer P.C. (“Consultant”); to that certain contract executed on July 21, 2015, in the original not-to-exceed amount of \$427,368 (the “Original Agreement”); amended on April 05, 2016 in the additional amount of \$112,758 aggregating a not-to-exceed amount of \$540,126 (the “First Amendment”); amended on February 07, 2017 in the additional amount of \$192,239 aggregating a not-to-exceed amount of \$732,365 (the “Second Amendment”); (collectively, the Original Agreement, the First Amendment, and the Second Amendment are the “Agreement”) are for services related to the Hickory Street Basin Peak Flow Detention Facility project.

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an addition to the design contract in a not-to-exceed amount of \$89,905 and construction administration services in a not-to-exceed amount of \$380,544 with this Amendment for an aggregate not-to-exceed amount of \$1,202,814

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by CONSULTANT to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for addition to the design contract and additional construction administration services described in Exhibit “B” of this amendment attached hereto and incorporated herein for all purposes for Hickory Street Basin Peak Flow Detention Facility Project, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the Owner agrees to pay, based on the cost estimate details attached as Exhibit “A” and Exhibit “B” to this Amendment, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$470,449.

2. This Amendment modifies the Agreement amount to provide an additional \$470,449 for the additional services with a revised aggregate not to exceed total of \$1,202,814.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Consultant, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 08/13/2019.

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

DocuSigned by:

Todd Hileman

TODD HILEMAN, CITY MANAGER

ATTEST:

ROSA RIOS, CITY SECRETARY

By: _____

DocuSigned by:

Rosa Rios

1C5CA8C5E175493...

“CONSULTANT”

Hazen and Sawyer P.C.

By: _____

DocuSigned by:

Chamindra Dassanayake

AUTHORIZED REPRESENTATIVE, _____

ATTEST:

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By: _____

DocuSigned by:

Mack Peinwand

7F9D328BF0204E5...

7/25/2019

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

DocuSigned by:

Frank Pugsley

22943FE13318483...

Frank Pugsley

PRINTED NAME

Water Utilities Director

TITLE

Water Utilities

DEPARTMENT



TASK	PD	PM	Civil			Structural			Process Mechanical			Electrical			Total Hours	Fee	Subconsultants	
			Project Engineer	Project Engineer	Assistant Engineer	CADD Engineer	CADD Engineer	Senior Engineer	Technical Advisor	Assistant Engineer	CADD Engineer	Senior Engineer	Project Engineer	Assistant Engineer				
																		CD
203. Hickory Creek Detention Facility and West Peak Flow Pump Station 100-Percent Design																		
Additional geotechnical investigation															0	\$ -	\$ 10,575	\$ 10,575
Additional survey															0	\$ -	\$ 10,025	\$ 10,025
Evaluations during design		32										10	28		70	\$ 10,990	\$ -	\$ 10,990
Site configuration changes	2	32	6	16	36			4	8	24			24	2	158	\$ 20,734	\$ -	\$ 20,734
207. HOLCS 100-Percent Design																		
Surge analysis on foremain and recommendations	1	6									4	62			73	\$ 9,467	\$ -	\$ 9,467
Pre-Cast Electrical Building and Debris Screen Changes	1	20		33				7	16			44	49	1	232	\$ 28,114	\$ -	\$ 28,114
															0	\$ -	\$ -	\$ -
Hours Subtotal	4	90	6	49	36			11	24	24	14	134	73	1	533			
																\$ 9,614	\$ 9,114	\$ 9,114



Hazen and Sawyer
8150 N. Central Expressway, Suite 700
Dallas, TX 75206 • 214.382.5750

April 30, 2019

P.S. Arora, PE
Director of Wastewater Utilities
City of Denton
901-A Texas Street
Denton, TX 76209

**Re: Construction Management Services Amendment
Hickory Creek Lift Station
Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station**

Dear Mr. Arora:

At your request, Hazen has prepared a scope and level of effort to perform construction administration services for both the Hickory Creek Lift Station and the Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station as an amendment to Contract #5718.

The Hickory Creek Lift Station is a new 11 million gallon per day (mgd) submersible lift station and includes a new electrical building, yard piping, and site work within the confines of the existing Hickory Creek Lift Station. The construction of the lift station is scheduled for 270 days (9 months). This project has bid and is ready for construction.

The Hickory Creek Detention Facility consists of a new 24-mgd submersible pump station with a 3.5 million gallon storage tank along with electrical, odor control, yard piping, and site work. The Pecan Creek West Peak Flow Pump Station consists of 24-mgd submersible pump station along with electrical, yard piping and site work at a second site. Both the detention facility and pump station will be bid as one contract. The construction schedule for the Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station project is estimated at 540 days (18 months).

Hazen will perform construction administration services for both projects. The construction administration includes review of submittals, request for information (RFIs), pay requests, and other construction administrative activities described in the scope below.

100 Hickory Creek Lift Station - Construction Administration Services

Hazen will provide 9 months of construction administration services in the role of Engineer as described in the Contract Documents for the Hickory Creek Lift Station:

1. **Preconstruction Conference** – Conduct preconstruction conference to address key contract elements, schedule, progress payments, change orders, record drawings, shop drawing submittals, and other coordination issues. Hazen will provide agenda and meeting minutes.

Job no



2. **Construction Progress Meetings** – Conduct up to nine (9) construction progress meetings to review construction progress. Hazen will provide agenda and meeting minutes.
3. **Additional Site Visits** – Hazen will provide additional site visits, not including construction progress meetings, to observe the progress and the quality of work and for coordination of the work. Hazen will provide up to 8 additional site visits.
4. **Monthly Pay Request Review** – Hazen will review and comment on up to 9 monthly and final Progress Payment based on the observations of the performed work.
5. **Submittal Review** – Review shop drawings and material submittals for conformance with the requirements of the Contract Documents. It is anticipated that Hazen will review and respond to a total of up to 65 shop drawing submittals.
6. **Request for Information (RFIs)** – Hazen will review the Contractor's RFIs and prepare a response in accordance with the Contract Documents. Hazen will provide interpretation and communicate intent if information is not addressed in the Contract Documents. It is anticipated that Hazen will review and respond up to a total of 30 RFIs.
7. **Field and Change Orders** – Hazen will provide responses to contract modifications and assist in the negotiations with the Contractor to determine the cost and time impacts of changes to the Contract Documents. Hazen will review up to 10 field orders and work change directives. Hazen will prepare up to three change orders.
8. **Project Closeout** – Hazen will provide assistance with startup and testing of the lift station, site visit to develop punch list, and perform other project closeout requirements. Hazen will archive all the construction information and provide electronic copy of DVD.
9. **Record Drawings** – Hazen will revise the construction drawings in accordance with the information furnished by Contractor, reflecting changes made during construction. Hazen will provide one full-size (22"x34") and one half-size (11"x17") bound set and one electronic copy in PDF format.

Meetings:

- Pre-Construction Meeting
- Construction Progress Meetings (9 meetings)

Deliverables

- Electronic copy of all construction administrative correspondence and submittals
- Record drawings

200 Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station - Construction Administration Services

Hazen will provide 18 months of construction administration services in the role of Engineer as described in the Contract Documents for the Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station:



1. **Preconstruction Conference** – Conduct preconstruction conference to address key contract elements, schedule, progress payments, change orders, record drawings, shop drawing submittals, and other coordination issues. Hazen will provide agenda and meeting minutes.
2. **Construction Progress Meetings** – Conduct up to eighteen (18) construction progress meetings to review construction progress. Hazen will provide agenda and meeting minutes.
3. **Additional Site Visits** – Hazen will provide additional site visits, not including construction progress meetings, to observe the progress and the quality of work and for coordination of the work. Hazen will provide up to 10 additional site visits.
4. **Monthly Pay Request Review** – Hazen will review and comment on up to 18 monthly and final Progress Payment based on the observations of the performed work.
5. **Submittal Review** – Review shop drawings and material submittals for conformance with the requirements of the Contract Documents. It is anticipated that Hazen will review and respond to a total of up to 85 shop drawing submittals.
6. **Request for Information (RFIs)** – Hazen will review the Contractor's RFIs and prepare a response in accordance with the Contract Documents. Hazen will provide interpretation and communicate intent if information is not addressed in the Contract Documents. It is anticipated that the Hazen will review and respond up to a total of 75 RFIs.
7. **Field and Change Orders** – Hazen will provide responses to contract modifications and assist in the negotiations with the Contractor to determine the cost and time impacts of changes to the Contract Documents. Hazen will review up to 20 field orders and work change directives. Hazen will prepare up to six change orders.
8. **Project Closeout** – Hazen will provide assistance with startup and testing of the two lift stations, odor control and storage tank, site visit to develop punch list, and perform other project closeout requirements. Hazen will archive all the construction information and provide electronic copy of DVD.
9. **Record Drawings** – Hazen will revise the construction drawings in accordance with the information furnished by Contractor, reflecting changes made during construction. Hazen will provide one full-size (22"x34") and one half-size (11"x17") bound set and one electronic copy in PDF format.

Meetings:

- Pre-Construction Meeting
- Construction Progress Meetings (18 meetings)

Deliverables

- Electronic copy of all construction administrative correspondence and submittals
- Record drawings



P.S. Arora, PE
April 30, 2019

Exclusions

The following items are excluded from Hazen's Scope of Work:

1. Excludes onsite construction observation, such as, but not limited to storage tank pier foundation system, storage tank construction, pump station construction and electrical buildings and systems.
2. Excludes coordination with independent materials testing laboratory
3. Excludes review and approval of Contractor substitutions
4. Excludes preparation of a facility standard operating procedures or separate operations and maintenance manual except for transferring those supplied by the Contractor.
5. Excludes factory witness testing
6. Excludes development of formal start-up or maintenance plans of pump station and tank during construction outside of the guidance provided as part of the design documents

Schedule

The schedule is dependent on the construction contractors. Since the notice to proceed has not be granted to the Contractor, below is an anticipated project schedule:

Milestone	Date
Hickory Creek Lift Station	
Anticipated Notice To Proceed	May 2019
Anticipated Final Completion	February 2020
Hickory Creek Detention Facility & Pecan Creek West Peak Flow Pump Station	
Bidding	May 2019
Anticipated Notice To Proceed	July 2019
Anticipated Final Completion	January 2021

Very truly yours,

Scott A. Hardy, PE, PMP
Senior Associate

Enclosure: Draft Level of Effort

cc: Chamindra Dassanayake, PhD, PE, Brandt Miller, PE

City of Denton

Hickory Creek Lift Station and Hickory Creek Detention Facility & Pecan Creek West Peak Flow PS Construction Services
Engineering Service Fee Breakdown / Details

4/30/2019

TASK	PM	Mechanical		Structural		Electrical		Instrumentation		Construction		Total Hours	Fee		
		Principal Engineer Tom Paulmann	Assistant Engineer	Senior Engineer Frederick Powell	Assistant Engineer	Senior Engineer Brett Buell	Assistant Engineer	Senior Engineer Dan Edwards	Assistant Engineer	Resident Project Rep. Tom Paulmann	Asst. Resident Project Rep.		Labor	ODC	Subtotal
100. Hickory Creek Lift Station - Construction Administration															
Pre-Construction Conference	4	8	4									755	\$ 108,688	\$ 4,700	\$ 113,388
Monthly Construction Meetings (9 months)	18	8	36									16	\$ 2,560	\$ 100	\$ 2,660
Additional Site Visits	16		16									62	\$ 9,504	\$ 600	\$ 10,104
Monthly Pay Request Review	9	4										32	\$ 5,632	\$ 2,000	\$ 7,632
Submittal Review	20	20	60	40	60	20	40	8	40			13	\$ 2,736		\$ 2,736
RFI Responses	8		20	8	16	8	16	8	16			308	\$ 43,136		\$ 43,136
Field and Change Orders	20		20	4	8	4	8	4	4			100	\$ 14,016		\$ 14,016
Project Closeout	20		36			4		4				72	\$ 11,520		\$ 11,520
Record Drawings	8		8	4		4			4	60		64	\$ 10,240		\$ 10,240
												88	\$ 9,344	\$ 2,000	\$ 11,344
200. Hickory Creek Detention Facility & Pecan Creek West Peak Flow PS - Construction Administration															
Pre-Construction Conference	6	8	8									1738	\$ 261,856	\$ 5,300	\$ 267,156
Monthly Construction Meetings (18 months)	72	16	108									22	\$ 3,488	\$ 100	\$ 3,588
Additional Site Visits	40		40	40		20						196	\$ 31,680	\$ 1,200	\$ 32,880
Monthly Pay Request Review	18	8										140	\$ 25,600	\$ 2,000	\$ 27,600
Submittal Review	60	40	80	60	100	40	50	12	60			26	\$ 5,472		\$ 5,472
RFI Responses	16		40	40	40	16	32	16	32			502	\$ 73,824		\$ 73,824
Field and Change Orders	40		40	20	20	8	16	8	8			232	\$ 33,920		\$ 33,920
Project Closeout	60		120			20		20				160	\$ 25,984		\$ 25,984
Record Drawings	20		40	20			12		8	140		220	\$ 34,880		\$ 34,880
												240	\$ 27,008	\$ 2,000	\$ 29,008
Fee Subtotal													\$ 370,544	\$ 10,000	\$ 380,544

Exhibit C

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.		
<p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>		
1	Name of vendor who has a business relationship with local governmental entity. Hazen and Sawyer, P.C.	
2	<input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7 th 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. <div style="text-align: center; margin: 10px 0;"> <u>Chamindra Dassanayake, PhD PE</u> Name of Officer </div> <p>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.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <div style="display: flex; justify-content: space-around; margin: 5px 0;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <p>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?</p> <div style="display: flex; justify-content: space-around; margin: 5px 0;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <p>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?</p> <div style="display: flex; justify-content: space-around; margin: 5px 0;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <p>D. Describe each employment or business and family relationship with the local government officer named in this section.</p> <p style="margin-left: 20px;">None</p>	
4	<input checked="" type="checkbox"/> I have no Conflict of Interest to disclose.	
5	<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 40%;"> <p>DocuSigned by:</p> <p><i>Chamindra Dassanayake</i></p> <p>DEF52433A8C0487...</p> </div> <div style="width: 30%; text-align: center;"> <p>_____</p> <p>he governmental entity</p> </div> <div style="width: 30%; text-align: center;"> <p>7/26/2019</p> <p>_____</p> <p>Date</p> </div> </div>	

Certificate Of Completion

Envelope Id: 03A7C7926FC448D78DB3B406F1BFAD6A	Status: Completed
Subject: Please DocuSign: City Council Contract 5768 Design of Hickory Creek Basin Peak Amendment No. 3	
Source Envelope:	
Document Pages: 10	Signatures: 6
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Monisa Rogers
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	Monisa.Rogers@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

Status: Original	Holder: Monisa Rogers	Location: DocuSign
7/16/2019 11:10:09 AM	Monisa.Rogers@cityofdenton.com	

Signer Events


Signer Events	Signature	Timestamp
Monisa Rogers monisa.rogers@cityofdenton.com Senior Buyer City Of Denton Security Level: Email, Account Authentication (None)	Completed Using IP Address: 129.120.6.150	Sent: 7/16/2019 11:27:42 AM Viewed: 7/16/2019 11:28:00 AM Signed: 7/16/2019 11:31:35 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 7/16/2019 11:31:37 AM Viewed: 7/16/2019 2:39:26 PM Signed: 7/16/2019 2:40:07 PM
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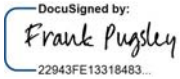
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Mack Reinwand mack.reinwand@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)	Completed Using IP Address: 129.120.6.150	Sent: 7/16/2019 2:40:09 PM Viewed: 7/25/2019 11:58:48 AM Signed: 7/25/2019 12:01:29 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Chamindra Dassanayake cdassanayake@hazenandsawyer.com Vice President Hazen and Sawyer Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 66.196.204.74	Sent: 7/25/2019 12:01:31 PM Resent: 7/26/2019 9:26:52 AM Viewed: 7/26/2019 9:50:19 AM Signed: 7/26/2019 9:51:33 AM
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Electronic Record and Signature Disclosure:
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Signer Events	Signature	Timestamp
<p>Frank Pugsley frank.pugsley@cityofdenton.com Water Utilities Director Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:  22943FE13318483...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150</p>	<p>Sent: 7/26/2019 9:51:35 AM Resent: 7/29/2019 2:16:11 PM Viewed: 7/29/2019 2:19:31 PM Signed: 7/29/2019 2:19:59 PM</p>

Electronic Record and Signature Disclosure:
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ID: 27d2f2dd-04ba-45a0-afdb-8ba7a96a5194

Cheyenne Defee
cheyenne.defee@cityofdenton.com
Contract Administrator
City of Denton
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Todd Hileman
Todd.Hileman@cityofdenton.com
City Manager
City of Denton
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
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ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21

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

Electronic Record and Signature Disclosure:
Accepted: 8/15/2019 11:36:23 AM
ID: 391084c5-8cee-4976-b7af-2121aed380ff

Mack Reinwand
mack.reinwand@cityofdenton.com
City of Denton
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign


Completed

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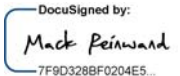
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Viewed: 8/15/2019 4:04:13 PM
Signed: 8/15/2019 4:04:44 PM

Person Signer Events	Signature	Timestamp
Editor Deliver Events	Status	Timestamp
Agent Deliver Events	Status	Timestamp
Intermediary Deliver Events	Status	Timestamp
Certified Deliver Events	Status	Timestamp

Carion Cop Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Paralegal City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 7/16/2019 11:31:37 AM
Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 7/16/2019 11:31:38 AM
Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 8/15/2019 9:56:16 AM
P.S. Arora P.S.Arora@cityofdenton.com Director Wastewater Utility Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 8/15/2019 11:37:03 AM Viewed: 8/15/2019 11:56:19 AM
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Envelope Sent	Hashed/Encrypted	8/15/2019 11:37:05 AM
Certified Delivered	Security Checked	8/15/2019 4:04:13 PM
Signing Complete	Security Checked	8/15/2019 4:04:44 PM
Completed	Security Checked	8/15/2019 4:04:44 PM
ament Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 21-015

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FOURTH AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND HAZEN AND SAWYER, P.C., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JULY 21, 2015, IN THE NOT-TO-EXCEED AMOUNT OF \$427,368.00; AMENDED BY AMENDMENTS 1, 2, AND 3 APPROVED BY CITY COUNCIL; SAID FOURTH AMENDMENT TO PROVIDE ADDITIONAL ENGINEERING SERVICES AND PERMITTING SUPPORT FOR THE HICKORY CREEK DETENTION FACILITY AND THE HICKORY CREEK LIFT STATION PROJECT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768 – PROVIDING FOR AN ADDITIONAL FOURTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$144,150.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,346,964.00).

WHEREAS, on July 21, 2015, by Ordinance No. 2015-205, the City awarded a contract to Hazen and Sawyer, P.C. in the amount of \$427,368.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility; and

WHEREAS, on April 5, 2016, by Ordinance No. 2016-098, the City awarded a First Amendment to Hazen and Sawyer, P.C. in the amount of \$112,758.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility, and

WHEREAS, on February 7, 2017, by Ordinance No. 2017-034, the City awarded a Second Amendment to Hazen and Sawyer, P.C. in the amount of \$192,239.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility; and

WHEREAS, on August 13, 2019, by Ordinance No. 19-1839, the City awarded a Third Amendment to Hazen and Sawyer, P.C. in the amount of \$470,449.00 to provide additional design and construction administration services for Hickory Creek Basin Peak Flow Detention Facility, West Peak Flow Storage Basin and Peak Flow Pump Station, and Hickory Creek Lift Station Reconstruction design; and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Fourth Amendment, increasing the amount of the contract between the City and Hazen and Sawyer, P.C., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Forty-Four Thousand One Hundred Fifty and 00/100 (\$144,150.00) Dollars, is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment. The total contract amount increases to \$1,346,964.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Paul Meltzer and seconded by John Ryan, the ordinance was passed and approved by the following vote [7 - 0]:

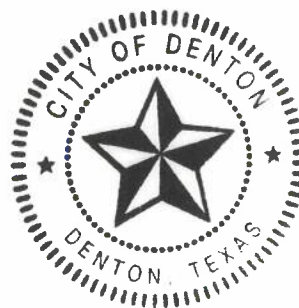
	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Birdia Johnson, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Connie Baker, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John Ryan, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 12th day of January, 2021.


GERARD HUDSPETH, MAYOR

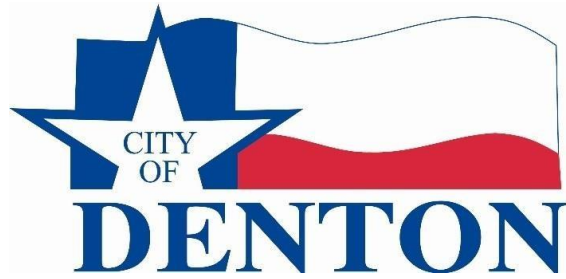
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 
Digitally signed by Marcella Lunn
DN: dc=com, dc=cityofdenton, dc=codad,
ou=Department Users and Groups, ou=General
Government, ou=Legal, cn=Marcella Lunn,
email=Marcella.Lunn@cityofdenton.com
Date: 2020.12.30 14:30:48 -06'00'



Docusign City Council Transmittal Coversheet

PSA	5768
File Name	HICKORY ST BASIN PEAK FLOW DETENTION FACILITY-AMEND 4
Purchasing Contact	Crystal westbrook
City Council Target Date	January 12, 2021
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	21-015

**FORTH AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER P.C.
Contract 5768**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FORTH AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer P.C. (“Consultant” or “Hazen”); to that certain contract executed on July 21, 2015, in the original not-to-exceed amount of \$427,368 (the “Original Agreement”); amended on April 05, 2016 in the additional amount of \$112,758 aggregating a not-to-exceed amount of \$540,126 (the “First Amendment”); amended on February 07, 2017 in the additional amount of \$192,239 aggregating a not-to-exceed amount of \$732,365 (the “Second Amendment”); amended on August 13, 2019 in the additional amount of \$470,449 aggregating a not-to-exceed amount of \$1,202,814 (the “Third Amendment”); (collectively, the Original Agreement, the First Amendment, the Second Amendment and the Third Amendment are the “Agreement”) are for services related to the Hickory Street Basin Peak Flow Detention Facility project.

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an addition to the design contract in a not-to-exceed amount of \$144,150 with this Amendment for an aggregate not-to-exceed amount of \$1,346,964; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by CONSULTANT to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Attachment “A” of this Amendment, attached hereto and incorporated herein for all purposes, for addition to the design contract and additional construction administration services for Hickory Street Basin Peak Flow Detention Facility Project, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the Owner agrees to pay, based on the cost estimate details attached as Attachment “A” to this Amendment, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$144,150.

2. This Amendment modifies the Agreement amount to provide an additional \$144,150 for the additional services with a revised aggregate not to exceed total of \$1,346,964.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Consultant, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 01/12/2021.

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: DocuSigned by:
Todd Hileman
B776G711BA0D454...
TODD HILEMAN, CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

By: DocuSigned by:
Rosa Rios
1C5CA8C5E175493...

“CONSULTANT”

Hazen and Sawyer P.C.

By: DocuSigned by:
Chadwick
DEF52433A6C0487... Vice President
AUTHORIZED SIGNATURE, TITLE

ATTEST:
APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By: DocuSigned by:
Marcella Luna
4B070831B4AA438...

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

DocuSigned by:
Terrance Naulty
B6F331381089478...
SIGNATURE TERRANCE NAULTY
PRINTED NAME

Interim Director Water/Wastewater
TITLE
utilities
DEPARTMENT

ATTACHMENT A

Hazen and Sawyer
8150 N. Central Expressway, Suite 700
Dallas, TX 75206 • 214.382.5750

October 7, 2020

Stephen Moore, PE
Project Manager
City of Denton
901A Texas Street
Denton, TX

Re: Contract 5768 Additional Engineering Services Amendment

Dear Mr. Moore:

Hazen and Sawyer (Hazen) has prepared this amendment request at your direction for Contract 5768 for additional engineering services during construction. The additional services include the following tasks:

1. Permit Support: Hazen shall provide the following permit support activities
 - Hickory Creek Detention Facility (HCDF) Development Services Permitting Comments: Address all comments provided by Development Services review dated March 9, 2020 except comments WS101 through WS107, which are to be addressed by the Contractor. Denton Municipal Electric (DME) drawing comments will be addressed but all other requirements to coordinate and submit information to DME will be performed by the City and/or Contractor. The effort assumes incorporating edits to the drawings based on the comments received and resubmitting. Two round of revisions is anticipated for approval. The effort includes TxDOT permit support.
 - HCDF Zoning and Compliance Plan development using the existing drawings and adding additional information listed on the ZCP checklist. Three rounds of comments is anticipated.
 - Pecan Creek Water Reclamation Plant (PCWRP) West Peak Flow Pump Station (WPFPS) Development Services Comments: Address all comments provided by Development Services review dated March 9, 2020 except comments WS101 through WS104, which are to be addressed by the Contractor. DME drawing comments will be addressed but all other requirements to coordinate and submit information to DME will be performed by the City and/or Contractor. The effort assumes incorporating edits to the drawings based on the comments received and resubmitting. Three round of revisions is anticipated for approval.
 - PCWRP WPFPS Zoning and Compliance Plan development using the existing drawings and adding additional information listed on the ZCP checklist. Three rounds of comments is anticipated.
 - Kansas City Southern (KCS) permit support including redesign to meet current standards that have changed since the time of the original design in 2015. One round of comments is anticipated.

Job no



Stephen Moore, PE
October 7, 2020

2. Hickory Creek Lift Station shall perform the following additional engineering services during construction:

- Review of 49 additional submittals. Original budget included review of 65 submittals and 13 resubmittals. As of April 20, 2020, Hazen has reviewed 112 submittals of which 52 are resubmittals. There are 8 remaining resubmittals and Hazen estimates an additional 7 submittals for review.
- Conduct six additional construction progress meetings. Original scope included 9 construction progress meetings with the 9th construction progress meeting held in April 2020.
- Development and submission of technical memorandum that compares the power consumption and life cycle cost between the two specified pump manufacturers.
- Design new cast-in-place concrete manhole for change order to replace specified FRP manhole for the debris screen.
- Design of stainless steel access hatch over wet well for change order to replace manufactured aluminum access hatch to allow for larger hatch opening for clear access for both pump removal and installation of electrical cables.
- Provide construction management services for period of 6 months when City of Denton did not have city engineer available to manage the contractor. Services included enforcing contract requirements, review of independent testing results, and coordinating Contractor's activities with the City.

Very truly yours,

A handwritten signature in blue ink, appearing to read "B. Miller", written over a horizontal line.

Brandt Miller, PE
Project Manager

cc: Chamindra Dassanayake, PhD, PE; Scott Hardy, PMP, PE

City of Denton

Hickory Creek Detention Facility and West Peak Flow Pump Station Permitting Support

Hickory Creek Lift Station Construction Administration Services

5768 Engineering Service Fee Breakdown / Details

10/7/2020



TASK	PM		Civil			Mechanical	Structural		Electrical		Instrumentation		Total Hours	Fee			
	Project Engineer Scott Hardy	Senior Engineer Brandt Miller	Senior Scientist	Engineer	Senior Engineer Jay London	Assistant Engineer	Engineer Ford	Assistant Engineer	Senior Engineer Brett Bueltel	Assistant Engineer	Assistant Engineer	CADD Bautista		Labor	ODC	Sub (PKCE)	Subtotal
1. Hickory Creek Detention Facility and PCWRP West Peak Flow Pump Station Permitting Support																	
HCDF Address Permitting Comments		32			8	2	1	6	1	4	0	24	78	\$ 12,200	\$ -	\$ 10,800	\$ 23,000
HCDF Zoning Compliance Plan		40			0	0	0	2	0	2	0	24	68	\$ 11,000	\$ -	\$ -	\$ 11,000
WPFPS Address Permitting Comments		28			8	2	0	6	1	2	0	24	71	\$ 10,900	\$ -	\$ -	\$ 10,900
WPFPS Zoning Compliance Plan		24			0	0	0	2	0	2	0	24	52	\$ 7,600	\$ -	\$ -	\$ 7,600
HCDF D6 - Downstream Assessment		3	40	40	0	4			13,300	\$ -	\$ -	0	87	\$ 13,300	\$ -	\$ -	\$ 13,300
PCWRP D6 - Downstream Assessment		2	24	24	0	0						0	50	\$ 7,800	\$ -	\$ -	\$ 7,800
KCS Permit Response		4										32	36	\$ 3,400	\$ -	\$ -	\$ 3,400
													0	\$ -	\$ -	\$ -	\$ -
Hours Subtotal	0	129	64	64	16	8	1	16	2	10	0	96	442	\$ 66,200	\$ -	\$ 10,800	\$ 77,000
2. HCLS Engineering Services during Construction																	
Additional Shop Drawings (49 Additional @ 4.6 hr/submittal)	49					98	4	20	8	36	8		223	\$ 30,900			\$ 30,900
Additional Construction Progress Meetings (6 Additional Meetings)	12												12	\$ 2,680			\$ 2,680
Pump Change and Power Usage TM	12					8							20	\$ 3,530			\$ 3,530
Design of Cast-In-Place MH	4						2	16				16	38	\$ 4,480			\$ 4,480
Design of Custom Wet Well Hatch Cover	4						2	16				12	34	\$ 4,160			\$ 4,160
Construction Management (Oct 2019 thru March 2020 - 6 months @16 hrs/mo)	96												96	\$ 21,400			\$ 21,400
													0	\$ -			\$ -
Hours Subtotal	177	0	0	0	0	106	8	52	8	36	8	28	423	\$ 67,150	\$ -		\$ 67,150
Amendment Total																	\$ 144,150

Certificate Of Completion

Envelope Id: 1BE27FF3867F4C9787EAE94DC7A5246E	Status: Completed
Subject: Please DocuSign: City Council Contract 5768-Hickory St Basin Peak Flow Detention Facility-Amend #4	
Source Envelope:	
Document Pages: 6	Signatures: 5
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Crystal Westbrook
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	crystal.westbrook@cityofdenton.com
	IP Address: 198.49.140.104

Record Tracking


Status: Original	Holder: Crystal Westbrook	Location: DocuSign
12/17/2020 9:58:35 AM	crystal.westbrook@cityofdenton.com	

Signer Events

Signature	Timestamp
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Crystal Westbrook
crystal.westbrook@cityofdenton.com
Senior Buyer
City of Denton
Security Level: Email, Account Authentication (None)

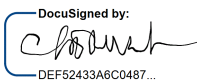
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 12/17/2020 10:06:54 AM Viewed: 12/17/2020 10:33:08 AM Signed: 12/17/2020 10:36:09 AM
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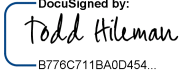

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Marcella Lunn marcella.lunn@cityofdenton.com Deputy City Attorney City of Denton Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104	Sent: 12/17/2020 10:36:10 AM Viewed: 12/17/2020 10:40:44 AM Signed: 12/17/2020 10:47:07 AM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Chamindra Dassanayake cdassanayake@hazenandsawyer.com Vice President Hazen and Sawyer Security Level: Email, Account Authentication (None)	 Signature Adoption: Drawn on Device Using IP Address: 174.197.77.232 Signed using mobile	Sent: 12/17/2020 10:47:10 AM Viewed: 12/22/2020 2:53:39 PM Signed: 12/22/2020 2:54:09 PM
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Signer Events	Signature	Timestamp
<p>Terrance Naulty terrance.naulty@cityofdenton.com Interim Director Water/Wastewater City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>DocuSigned by:  B6F331381089478...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.104</p>	<p>Sent: 12/22/2020 2:54:11 PM Viewed: 12/29/2020 3:31:35 PM Signed: 12/29/2020 3:32:21 PM</p>
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>Completed</p> <p>Using IP Address: 198.49.140.104</p>	<p>Sent: 12/29/2020 3:32:23 PM Viewed: 1/13/2021 8:16:10 AM Signed: 1/13/2021 8:16:50 AM</p>
<p>Todd Hileman Todd.Hileman@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 7/25/2017 11:02:14 AM ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21</p>	<p>DocuSigned by:  B776C711BA0D454...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 107.77.200.71 Signed using mobile</p>	<p>Sent: 1/13/2021 8:16:52 AM Viewed: 1/13/2021 9:23:58 AM Signed: 1/13/2021 9:24:05 AM</p>
<p>Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 1/13/2021 11:55:03 AM ID: 891f34ac-12cd-4be6-a1db-7bf45b9789eb</p>	<p>DocuSigned by:  1C5CA8C5E175493...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10</p>	<p>Sent: 1/13/2021 9:24:08 AM Viewed: 1/13/2021 11:55:03 AM Signed: 1/13/2021 11:55:21 AM</p>

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
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>COPIED</p>	<p>Sent: 12/17/2020 10:06:55 AM</p>

Carbon Copy Events	Status	Timestamp
Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/29/2020 3:32:23 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/29/2020 3:32:24 PM Viewed: 12/29/2020 3:33:31 PM
Zolina Parker zolina.parker@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/13/2021 11:55:23 AM
Pritam Deshmukh pritam.deshmukh@cityofdenton.com Deputy City Engineer Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/13/2021 11:55:23 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/17/2020 10:04:32 AM
Certified Delivered	Security Checked	1/13/2021 11:55:03 AM
Signing Complete	Security Checked	1/13/2021 11:55:21 AM
Completed	Security Checked	1/13/2021 11:55:23 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. 21-891

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIFTH AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND HAZEN AND SAWYER, P.C., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JULY 21, 2015, IN THE NOT-TO-EXCEED AMOUNT OF \$427,368.00; AMENDED BY AMENDMENTS 1, 2, 3, AND 4 APPROVED BY CITY COUNCIL; SAID FIFTH AMENDMENT TO PROVIDE ADDITIONAL ENGINEERING SERVICES AND PERMITTING SUPPORT FOR THE HICKORY CREEK BASIN PEAK FLOW DETENTION FACILITY AND THE HICKORY CREEK LIFT STATION PROJECT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768 – PROVIDING FOR AN ADDITIONAL FIFTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$66,742.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,413,706.00).

WHEREAS, on July 21, 2015, by Ordinance No. 2015-205, the City awarded a contract to Hazen and Sawyer, P.C. in the amount of \$427,368.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility; and

WHEREAS, on April 5, 2016, the City awarded a First Amendment to Hazen and Sawyer, P.C. in the amount of \$112,758.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility, and

WHEREAS, on February 7, 2017, the City awarded a Second Amendment to Hazen and Sawyer, P.C. in the amount of \$192,239.00 for the design of the Hickory Creek Basin Peak Flow Detention Facility, and

WHEREAS, on August 13, 2019, the City awarded a Third Amendment to Hazen and Sawyer, P.C. in the amount of \$470,449.00 to provide additional design and construction administration services for Hickory Creek Basin Peak Flow Detention Facility, West Peak Flow Storage Basin and Peak Flow Pump Station, and Hickory Creek Lift Station Reconstruction Design, and

WHEREAS, on January 12, 2021, the City awarded a Fourth Amendment to Hazen and Sawyer, P.C. in the amount of \$144,150.00 to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station Project, and

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Fifth Amendment, increasing the amount of the contract between the City

and Hazen and Sawyer, P.C., which is on file in the office of the Purchasing Agent, in the amount of Sixty-Six Thousand Seven Hundred Forty-Two and 00/100 (\$66,742.00) Dollars, is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be attached hereto. The total contract amount increases to \$1,413,706.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Jesse Davis and seconded by Paul Meltzer. The ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Vicki Byrd, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Brian Beck, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Alison Maguire, District 4:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 18th day of May, 2021.



GERARD HUDSPETH, MAYOR

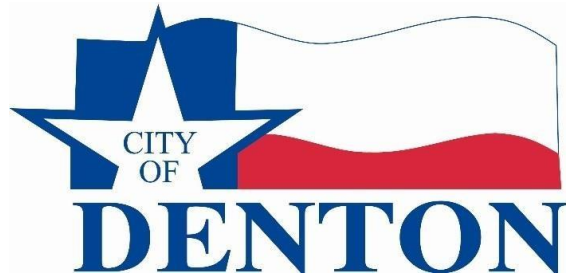
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: *Rosa Rios*

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: *Marcella Lunn*
Digitally signed by Marcella Lunn
DN: dc=com, dc=cityofdenton, dc=codad,
ou=Department Users and Groups, ou=General
Government, ou=Legal, cn=Marcella Lunn,
email=Marcella.Lunn@cityofdenton.com
Date: 2021.05.03 16:22:58 -0500





Docusign City Council Transmittal Coversheet

PSA	5768
File Name	HICKORY ST BASIN PEAK FLOW DETENTION FACILITY-AMEND 5
Purchasing Contact	Crystal westbrook
City Council Target Date	MAY 18, 2021
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	21-891

**FIFTH AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER P.C.
Contract 5768**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIFTH AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer P.C. (“Consultant” or “Hazen”); to that certain contract executed on July 21, 2015, in the original not-to-exceed amount of \$427,368 (the “Original Agreement”); amended on April 05, 2016 in the additional amount of \$112,758 aggregating a not-to-exceed amount of \$540,126 (the “First Amendment”); amended on February 07, 2017 in the additional amount of \$192,239 aggregating a not-to-exceed amount of \$732,365 (the “Second Amendment”); amended on August 13, 2019 in the additional amount of \$470,449 aggregating a not-to-exceed amount of \$1,202,814 (the “Third Amendment”); amended on January 12, 2021 in the additional amount of \$144,150 aggregating a not-to-exceed amount of \$1,346,964 (the “Fourth Amendment”) (collectively, the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment are the “Agreement”) are for services related to the Hickory Street Basin Peak Flow Detention Facility project.

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an addition to the design contract in a not-to-exceed amount of \$66,742 with this Amendment for an aggregate not-to-exceed amount of \$1,413,706; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by CONSULTANT to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Attachment “A” of this Amendment, attached hereto and incorporated herein for all purposes, for addition to the design contract and additional construction administration services for Hickory Street Basin Peak Flow Detention Facility Project, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the Owner agrees to pay, based on the cost estimate details attached as Attachment “A” to this Amendment, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$66,742.

2. This Amendment modifies the Agreement amount to provide an additional \$66,742 for the additional services with a revised aggregate not to exceed total of \$1,413,706.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Consultant, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 05/18/2021.

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: DocuSigned by:
Sara Hensley
5236DB296270423...
SARA HENSLEY, INTERIM CITY
MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

By: DocuSigned by:
Rosa Rios
1C5CA8C5E175493...

“CONSULTANT”
Hazen and Sawyer P.C.

By: DocuSigned by:
Chand Smith
DEF52433A6G0487...
AUTHORIZED SIGNATURE, TITLE

ATTEST:
APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

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

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

DocuSigned by:
Stephen D. Gay Stephen D. Gay
FEB48BB9726E4A9...
SIGNATURE PRINTED NAME

Director, Water and Wastewater

TITLE

Water and Wastewater

DEPARTMENT

ATTACHMENT A

Hazen and Sawyer
8150 N. Central Expressway, Suite 700
Dallas, TX 75206 • 214.382.5750

April 1, 2021

Chris Campbell
Superintendent - Capital Projects
Water and Wastewater Utilities
City of Denton
901-A Texas Street
Denton, TX 76209

**Re: Construction Management Services Amendment
Contract 5768 - Hickory Creek Lift Station**

Dear Mr. Campbell:

Hazen and Sawyer (Hazen) has prepared this amendment request for Contract 5768 for additional engineering services during construction for the Hickory Creek Lift Station (HCLS). This is the second amendment for engineering services during construction of the HCLS. The first amendment continued construction services through October 2020. With further construction delays, Hazen was able to extend services by an additional 4 months to February 2021 and is currently out of budget. Based on the current progress of the project, Hazen estimates that the final completion of the project will occur by September 1, 2021, which is the basis for this amendment.

With this amendment, Hazen will continue to provide construction administration services in the role of Engineer as described in the Contract Documents. Below is a list of tasks that Hazen will perform:

1. **Construction Progress Meetings** – Conduct up to six (6) construction progress meetings to review construction progress. Hazen will provide agenda and meeting minutes.
2. **Additional Site Visits** – Hazen will provide additional site visits, not including construction progress meetings, to observe the progress and the quality of work and for coordination of the work. Hazen will provide up to 4 additional site visits.
3. **Monthly Pay Request Review** – Hazen will review and comment on up to 6 monthly and final Progress Payment based on the observations of the performed work.
4. **Engineering Support** – Review any additional submittals, respond to RFIs, review change order proposals and provide any technical evaluations and recommendations for construction issues.
5. **O&M Manual Coordination** – Hazen will review and provide comments on preliminary and final O&M manuals. Hazen will review up to 15 O&M manuals.
6. **Startup and Commissioning** – Hazen will provide assistance with confirming performance and operation of the lift station, as well as provide trouble shooting assistance.
7. **Project Closeout** – Hazen will perform site visit to develop punch list, review request for substantial completion, perform final walk through and perform other project closeout requirements. Hazen will archive all the construction information and provide electronic copy on a DVD.

Job no



Chris Campbell
April 1, 2021

8. **Record Drawings** – Hazen will revise the construction drawings in accordance with the information furnished by the Contractor, reflecting changes made during construction. Hazen will provide one full-size (22"x34") and one half-size (11"x17") bound set and one electronic copy in PDF format.

Schedule

This amendment is based on the latest schedule from Rey-Mar received on March 25, 2021. Note that the construction schedule did not include the demolition of the existing lift station electrical equipment, which is the reason for the longer proposed schedule below:

- Force main tie-in – End of April 2021
- Start-Up and Commissioning – May 2021
- 30-Day Performance Test – June 2021
- Demolition of Existing Lift Station Electrical – July 2021
- Substantial Completion – August 1, 2021
- Final Completion – September 1, 2021
- Submission of Record Drawings and Project Records – October 1, 2021

Very truly yours,

A handwritten signature in blue ink, appearing to read "Scott Hardy", with a long, sweeping horizontal line extending to the right.

Scott A. Hardy, PE, PMP
Senior Associate

Enclosure: Draft Level of Effort

City of Denton
Hickory Creek Lift Station - Amendment 2
Engineering Service Fee Breakdown / Details



4/1/2021

TASK		PM	Mechanical	Structural		Electrical		I&C	CAD	Total Hours	Fee		
		Project Manager	Engineer	Lead Engineer	Engineer	Lead Engineer	Engineer	Lead Engineer	Designer		Labor	Other Direct Costs	Subtotal
		Hardy	Urias	Powell	Ford	Bueltel	Stewart	Colton					
100. Construction Services										366	\$ 64,742	\$ 2,000	\$ 66,742
Construction Meetings - 6 Meetings March 2021 - Aug 2021		12								12	\$ 3,072	\$ -	\$ 3,072
Pay Application Reviews 6 Pay Applications		6								6	\$ 1,536	\$ -	\$ 1,536
Site Visits 4 Site Visits		16								16	\$ 4,096	\$ -	\$ 4,096
Engineering Support 6 Months		24	8	4	12	4	20	20		92	\$ 16,832	\$ -	\$ 16,832
O&M Manual Review & Coordination		4	16			4	16	16		56	\$ 8,538	\$ -	\$ 8,538
Startup and Commissioning		20				4		8		32	\$ 7,104	\$ -	\$ 7,104
Project Closeout		20	36			4		4		64	\$ 10,842	\$ -	\$ 10,842
Record Drawings		8	8		4	4		4	60	88	\$ 12,723	\$ 2,000	\$ 14,723
Fee Subtotal											\$ 64,742	\$ 2,000	\$ 66,742

Certificate Of Completion

Envelope Id: F17B3FAB7D75428295A1DA4FDD770112

Status: Completed

Subject: Please DocuSign: City Council Contract 5768--Amendment 5

Source Envelope:

Document Pages: 6

Signatures: 5

Certificate Pages: 6

Initials: 1

AutoNav: Enabled

Envelope Stamping: Enabled

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

Envelope Originator:

Crystal Westbrook

901B Texas Street

Denton, TX 76209

crystal.westbrook@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

4/15/2021 9:59:37 AM

Holder: Crystal Westbrook

crystal.westbrook@cityofdenton.com

Location: DocuSign

Signer Events

Crystal Westbrook

crystal.westbrook@cityofdenton.com

Senior Buyer

City of Denton

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Lori Hewell

lori.hewell@cityofdenton.com

Purchasing Manager

City of Denton

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Marcella Lunn

marcella.lunn@cityofdenton.com

Deputy City Attorney

City of Denton

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Chamindra Dassanayake

cdassanayake@hazenandsawyer.com

Vice President

Hazen and Sawyer

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 4/16/2021 8:47:18 AM

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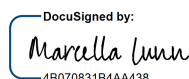
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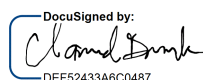
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Signed using mobile

Timestamp

Sent: 4/15/2021 10:31:36 AM

Viewed: 4/15/2021 10:42:18 AM

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Viewed: 4/16/2021 8:47:18 AM

Signed: 4/16/2021 8:48:37 AM

Signer Events	Signature	Timestamp
Stephen D. Gay stephen.gay@cityofdenton.com Director, Water and Wastewater Security Level: Email, Account Authentication (None)	DocuSigned by:  FEB48BB9726E4A9... Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 4/16/2021 8:48:39 AM Viewed: 4/16/2021 12:32:23 PM Signed: 4/16/2021 12:43:31 PM

Electronic Record and Signature Disclosure:
Accepted: 4/16/2021 12:32:23 PM
ID: 4c05933d-c617-4848-9faa-746d3c46babb

Cheyenne Defee
cheyenne.defee@cityofdenton.com
Contract Administrator
City of Denton

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sara Hensley
sara.hensley@cityofdenton.com
Interim City Manager
City of Denton

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Rosa Rios
rosa.rios@cityofdenton.com
City Secretary

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
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ID: 8d51a377-c5d2-4395-9db6-231873d3fc34

Completed

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

Cheyenne Defee
cheyenne.defee@cityofdenton.com
Contract Administrator
City of Denton
Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
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Carbon Copy Events	Status	Timestamp
Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 4/16/2021 12:43:33 PM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 4/16/2021 12:43:34 PM Viewed: 4/19/2021 4:45:09 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/19/2021 8:40:45 AM Viewed: 5/19/2021 9:21:16 AM
Annie Bunger annie.bunger@cityofdenton.com Contract Control Specialist City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 5/19/2021 8:40:46 AM
Chris Campbell chris.campbell@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 5/17/2021 7:56:08 AM ID: d784b813-e4d5-4ac8-a4ab-ad68d57adf36	COPIED	Sent: 5/19/2021 8:40:46 AM
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Completed	Security Checked	5/19/2021 8:40:46 AM
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Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A SIXTH AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND HAZEN AND SAWYER, P.C., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON JULY 21, 2015, IN THE NOT-TO-EXCEED AMOUNT OF \$427,368.00; AMENDED BY AMENDMENTS 1-5 APPROVED BY CITY COUNCIL; SAID SIXTH AMENDMENT TO PROVIDE ADDITIONAL ENGINEERING SERVICES AND PERMITTING SUPPORT FOR THE HICKORY CREEK BASIN PEAK FLOW DETENTION FACILITY AND THE HICKORY CREEK LIFT STATION PROJECT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 5768 – PROVIDING FOR AN ADDITIONAL SIXTH AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$164,300.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$1,578,006.00).

WHEREAS, on July 21, 2015, by Ordinance No. 2015-205, the City awarded a contract to Hazen and Sawyer, P.C. in the amount of \$427,368.00, for the design of the Hickory Creek Basin Peak Flow Detention Facility; and

WHEREAS, on April 5, 2016, the City awarded a First Amendment to Hazen and Sawyer, P.C. in the amount of \$112,758.00, for the design of the Hickory Creek Basin Peak Flow Detention Facility, and

WHEREAS, on February 8, 2017, the City awarded a Second Amendment to Hazen and Sawyer, P.C. in the amount of \$192,239.00, for the design of the Hickory Creek Basin Peak Flow Detention Facility, and

WHEREAS, on August 13, 2019, the City awarded a Third Amendment to Hazen and Sawyer, P.C. in the amount of \$470,449.00, to provide additional design and construction administration services for Hickory Creek Basin Peak Flow Detention Facility, West Peak Flow Storage Basin and Peak Flow Pump Station, and Hickory Creek Lift Station Reconstruction Design, and

WHEREAS, on January 12, 2021, the City awarded a Fourth Amendment to Hazen and Sawyer, P.C. in the amount of \$144,150.00, to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station Project, and

WHEREAS, on May 18, 2021, the City awarded a Fifth Amendment to Hazen and Sawyer, P.C. in the amount of \$66,742.00, to provide additional engineering services and permitting support for the Hickory Creek Basin Peak Flow Detention Facility and the Hickory Creek Lift Station Project, and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The Sixth Amendment, increasing the amount of the contract between the City and Hazen and Sawyer, P.C., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Sixty-Four Thousand Three Hundred and 00/100 (\$164,300.00) Dollars, is hereby approved and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be attached hereto. The total contract amount increases to \$1,578,006.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

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

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

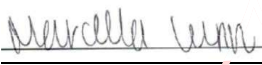
PASSED AND APPROVED this the _____ day of _____, 2023.

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@cityofde
nton.com, c=US
Date: 2023.01.12 22:06:01
-06'00'



Docusign City Council Transmittal Coversheet

PSA	5768
File Name	Hickory St Basin Peak Flow Detention Facility - Amend 6
Purchasing Contact	Crystal westbrook
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**SIXTH AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND HAZEN AND SAWYER P.C.
Contract 5768**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS SIXTH AMENDMENT TO CONTRACT 5768 (“Amendment”) by and between the City of Denton, Texas (“City”) and Hazen and Sawyer P.C. (“Consultant” or “Hazen”); to that certain contract executed on July 21, 2015, in the original not-to-exceed amount of \$427,368 (the “Original Agreement”); amended on April 05, 2016 in the additional amount of \$112,758 aggregating a not-to-exceed amount of \$540,126 (the “First Amendment”); amended on February 08, 2017 in the additional amount of \$192,239 aggregating a not-to-exceed amount of \$732,365 (the “Second Amendment”); amended on August 13, 2019 in the additional amount of \$470,449 aggregating a not-to-exceed amount of \$1,202,814 (the “Third Amendment”); amended on January 12, 2021 in the additional amount of \$144,150 aggregating a not-to-exceed amount of \$1,346,964 (the “Fourth Amendment”); amended on May 18, 2021 in the additional amount of \$66,742 aggregating a not-to-exceed amount of \$1,413,706 (the “Fifth Amendment”) (collectively, the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment are the “Agreement”) are for services related to the Hickory Street Basin Peak Flow Detention Facility project.

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an addition to the design contract in a not-to-exceed amount of \$164,300 with this Amendment for an aggregate not-to-exceed amount of \$1,578,006; and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by CONSULTANT to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Attachment “A” of this Amendment, attached hereto and incorporated herein for all purposes, for addition to the design contract and additional construction administration services for Hickory Street Basin Peak Flow Detention Facility Project, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the Owner agrees to pay, based on the cost estimate details attached as

Attachment "A" to this Amendment, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$164,300

2. This Amendment modifies the Agreement amount to provide an additional \$164,300 for the additional services with a revised aggregate not to exceed total of \$1,578,006.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

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

"CITY"

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: _____

SARA HENSLEY, CITY MANAGER

ATTEST:
ROSA RIOS, CITY SECRETARY

By: _____

"CONSULTANT"

Hazen and Sawyer P.C.

By: _____

AUTHORIZED SIGNATURE, TITLE

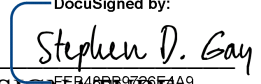
ATTEST:
APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY
ATTORNEY

By: _____

DocuSigned by:

Marcella Lunn
4B070831B4AA438...

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

DocuSigned by:
 Stephen D. Gay
SIGNATURE PRINTED NAME

Director

TITLE

Water Utilities

DEPARTMENT

ATTACHMENT A

Hazen and Sawyer
8150 N. Central Expressway, Suite 700
Dallas, TX 75206 • 214.382.5750

October 14, 2022

David Brown
Construction Project Manager
Water and Wastewater Utilities
City of Denton
901-A Texas Street
Denton, TX 76209

**Re: Design Support During Construction Services Amendment
Contract 5768 – Hickory Creek Detention Facility
and Pecan Creek Water Reclamation Plant West Peak Flow Pump Station**

Dear Mr. Brown:

Hazen and Sawyer (Hazen) has prepared this amendment request for Contract 5768 for additional engineering services during construction for the Hickory Creek Detention Facility (HCDF) and Pecan Creek Water Reclamation Plant (PCWRP) West Peak Flow Pump Station (WPFPS). This is the second amendment for engineering services during construction of the HCDF and PCWRP WPFPS. The first amendment added permitting services. Based on the current progress of the project, Hazen estimates that the final completion of the project will occur by March 31, 2023, which, together with issues that have arisen during construction, is the basis for this amendment, as described below.

Hickory Creek Detention Facility and Pecan Creek West Peak Flow Pump Station

Reason for Admendment:

Hazen performed the following additional work:

1. **Redesign Foundation for Odor Control Equipment Pad and Electrical Pad (HCDF):** For 45 feet deep pump station excavation, Contractor used a wide, laid-back excavation instead of using excavation support, which results in a narrow excavation, as called out on Drawings. Backfilling the wide laid-back excavation would result in greater than acceptable settlement of adjacent odor control and electrical concrete slabs for piping and conduits passing between structures. To prevent settlement, Hazen redesigned the foundations for the odor control and electrical slabs with drilled pier foundations.
2. **Design of Retaining Wall (PCWPFPS):** The Pecan Creek West Peak Flow Pump Station design resulted in infill within the current flood plain delineation but outside the revised delineation provided by the City at the time of design. The City of Denton self-performed a flood study but did not submit the Conditional Letter of Map Revision (CLOMR) causing denial of the construction permit. Because of potential construction delays, City of Denton decided to have

60702-005



David Brown
October 14, 2022

Hazen design a retaining wall to eliminate adding fill in the current flood plain delineation rather than submitting a CLOMR.

3. **Additional Construction Meetings (HCDF & PCWFPS):** The original contract included 18 monthly construction meetings. The current construction duration is 30 months and Hazen estimates a total duration of 36 months, which requires an additional 18 months of construction meetings. Also, the monthly construction meetings were changed to bi-weekly meetings doubling the number of construction progress meetings through July 2021.
4. **Review of Additional Shop Drawings (HCDF & PCWFPS):** Hazen's scope included the review of 85 shop drawings. Because of the high number of resubmissions from incompleteness or non-conformance to the contract requirements, the current total of submittals is 244 with the anticipated total of 260. Hazen will review the additional 175 shop drawings.
5. **42"-RS-FRP Pipe Offset (HCDF):** The Contractor installed the 42"-RS-FRP pipe connection to the HCDF Pump Station without following the manufacturers recommendations or the Contractor's submitted configuration. The Contractor's backfill also varied from that specified and from that submitted. The pipe connection shifted after backfill was completed. Hazen brought in pipeline experts to evaluate the relative risks of the condition and alternatives to address the failure.

Cost:

The following costs are for both the Hickory Creek Detention Facility and Pecan Creek West Peak Flow Pump Station:

Item	Cost
Redesign Foundation for Odor Control Equipment Pad and Electrical Pad (HCDF)	\$43,800
Design of Retaining Wall (PCWPFPS)	\$14,500
Additional 15 Months of Construction Administration Services (Both Projects)	\$26,200
Review of Additional Shop Drawings (Both Projects)	\$67,800
42"-RS-FRP Pipe Offset (HCDF)	\$12,000
Total	\$164,300



David Brown
October 14, 2022

Schedule

This amendment is based on the latest schedule update from Archer Western during the Construction Progress Meeting on September 20, 2022.

- HCDF Start-Up and Commissioning – complete December 2022
- PCWRP WPFPS Start-Up and Commissioning – October – February 2022
- Substantial Completion – February 28, 2022
- Final Completion – March 31, 2022
- Submission of Record Drawings and Project Records – April 30, 2022

Very truly yours,

A handwritten signature in black ink, appearing to be "Brandt Miller", written over a horizontal line.

Brandt Miller, PE
Senior Associate

Certificate Of Completion

Envelope Id: CE9BA90B455D4CD7981AE36625833B22

Status: Sent

Subject: Please DocuSign: City Council Contract 5768--Amendment 6

Source Envelope:

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Signatures: 3

Envelope Originator:

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Initials: 1

Lori Hewell

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901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

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

lori.hewell@cityofdenton.com

IP Address: 198.49.140.104

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lori.hewell@cityofdenton.com

Location: DocuSign

Status: Original

1/5/2023 12:48:30 PM

Holder: Crystal Westbrook

crystal.westbrook@cityofdenton.com

Location: DocuSign

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

Lori Hewell

Completed

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lori.hewell@cityofdenton.com

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Purchasing Manager

Signed: 12/27/2022 8:32:46 AM

City of Denton

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Lori Hewell



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lori.hewell@cityofdenton.com

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Purchasing Manager

Signed: 12/27/2022 8:33:38 AM

City of Denton

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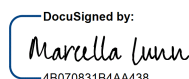
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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn



Sent: 12/27/2022 8:33:43 AM

marcella.lunn@cityofdenton.com

Viewed: 12/27/2022 9:17:08 AM

Deputy City Attorney

Signed: 12/27/2022 9:17:44 AM

City of Denton

Signature Adoption: Pre-selected Style

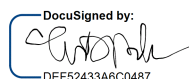
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Electronic Record and Signature Disclosure:

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Chamindra Dassanayake



Sent: 12/27/2022 9:17:49 AM

cdassanayake@hazenandsawyer.com

Resent: 1/5/2023 12:47:47 PM

Vice President

Viewed: 1/5/2023 6:14:56 PM

Hazen and Sawyer

Signed: 1/5/2023 6:15:36 PM

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Signature Adoption: Drawn on Device

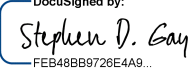
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Signer Events	Signature	Timestamp
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<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		<p>Sent: 1/6/2023 6:38:27 AM</p>
<p>Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Rosa Rios rosa.rios@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 1/5/2023 11:19:59 AM ID: 05add39e-427a-4609-81a0-0f1401d4abf9</p>		
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Carbon Copy Events	Status	Timestamp
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div>COPIED</div>	<p>Sent: 12/27/2022 8:32:51 AM</p>
<p>Sherri Thurman sherri.thurman@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div>COPIED</div>	<p>Sent: 1/6/2023 6:38:26 AM</p>

Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Annie Bunger annie.bunger@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign David Brown david.brown@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 4/10/2019 2:54:36 PM ID: 20238ddf-ccd6-4d52-988f-8c9f3436055e	<div>COPIED</div>	Sent: 1/6/2023 6:38:27 AM Viewed: 1/6/2023 10:34:46 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/27/2022 8:30:50 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

Legislation Text

File #: PUB23-011, Version: 1

AGENDA CAPTION

Consider recommending adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$300,000,000 in principal amount of "City of Denton Utility System Revenue Refunding Bonds, Series 2023"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Finance

INTERIM ACM: Cassey Ogden

DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$300,000,000 in principal amount of "City of Denton Utility System Revenue Refunding Bonds, Series 2023"; authorizing the issuance of the bonds; delegating the authority to certain city officials to execute certain documents relating to the sale of the bonds; approving and authorizing instruments and procedures relating to said bonds; enacting other provisions relating to the subject; and providing an effective date.

BACKGROUND

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

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

By doing so, City staff will be authorized to execute the sale without additional Council action. Once the exact terms of the transaction are determined, staff will provide the City Council with additional information in an informal staff report. The goal is to sell bonds once a year for all new and refunding bonds, however, this will give staff the flexibility to sell revenue refunding bonds to pay off the commercial paper outside of the City's normal financing routine should it be necessary.

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

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

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

- (iii) the Bonds shall bear interest at a fixed rate, and the net effective interest rate on the Bonds shall not exceed the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Issuer in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, as amended);
- (iv) the delegation made hereby shall expire if not exercised by the Pricing Officer through execution of a Pricing Certificate on or prior to February 7, 2024; and
- (vi) on or prior to delivery, the Bonds shall be rated by a rating agency for municipal securities in one of the four highest categories for long-term obligations.

RECOMMENDATION

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

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The required annual adoption of the UECP was last approved by City Council on March 1, 2022 (Ord 22-229).

EXHIBITS

1. Agenda Information Sheet
2. Ordinance

Respectfully submitted:
Nick Vincent
Interim Director of Finance

Prepared by:
Randee Klingele
Treasury Manager

ORDINANCE NO. 23-_____

AN ORDINANCE CONSIDERING ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE AND DELIVERY OF UP TO \$300,000,000 IN PRINCIPAL AMOUNT OF “CITY OF DENTON UTILITY SYSTEM REVENUE REFUNDING BONDS, SERIES 2023”; AUTHORIZING THE ISSUANCE OF THE BONDS; DELEGATING THE AUTHORITY TO CERTAIN CITY OFFICIALS TO EXECUTE CERTAIN DOCUMENTS RELATING TO THE SALE OF THE BONDS; APPROVING AND AUTHORIZING INSTRUMENTS AND PROCEDURES RELATING TO SAID BONDS; ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City of Denton (the “City” or the “Issuer”) has heretofore issued its City of Denton Utility System Revenue Bonds, Series 2017 (the “Series 2017 Bonds”) and its City of Denton Utility System Revenue Refunding Bonds, Taxable Series 2021 (the “Series 2021 Bonds” and, together with the Series 2017 Bonds, the “Existing Bonds”); and

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

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

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

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

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

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

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

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

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

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. DEFINITIONS.

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

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

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

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

"*Annual Debt Service Requirements*" means, as of the date of calculation, the principal of and interest on all Senior Lien Obligations coming due at Maturity or Stated Maturity (or that could come due on demand

of the owner thereof or other demand conditioned upon default by the Issuer on such Debt, or be payable in respect of any required purchase of such Debt by the Issuer) in such Year, and, for such purposes, any one or more of the following rules shall apply at the election of the Issuer:

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

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

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

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

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

variable interest rate, or one or more maturities within a series, of equal par amounts, are issued simultaneously with inverse floating interest rates providing a composite fixed interest rate for such Senior Lien Obligations taken as a whole, such composite fixed rate shall be used in determining the Annual Debt Service Requirement with respect to such Senior Lien Obligations);

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

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

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

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

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

“Bond,” “Bonds” and *“Series 2023 Bonds”* have the meaning assigned to such terms in Section 2(c).

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

“*City Council*” means the City Council of the Issuer.

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

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

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

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

“*Debt*” means:

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

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

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

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

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

“*DTC*” means The Depository Trust Company, New York, New York.

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

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

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

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

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

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

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

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

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

“*Issuer*” means the City of Denton, Texas.

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

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

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

“Operating Expenses” means the reasonable and necessary expenses of operation and maintenance of the System, including all salaries, labor, materials, repairs and extensions necessary to render efficient service (but only such repairs and extensions as, in the judgment of the Issuer, are necessary to keep the System in operation and render adequate service or such as might be necessary to meet some physical accident or conditions which would otherwise impair the Senior Lien Obligations), and all payments under contracts for materials and services (including water supply contracts) provided to the Issuer that are required to enable the Issuer to render efficient service. The following shall never be considered as an Operating Expense: (1) depreciation, (2) franchise fees paid to the Issuer or transferred to the general fund or other fund of the Issuer, and (3) return on investment payments made to the Issuer or transferred to the general fund or other fund of the Issuer.

“Ordinance” means this ordinance finally adopted by the City Council on February 7, 2023.

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

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

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

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

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

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

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

“Pledged Revenues” means

(1) the Net Revenues, plus

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

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

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

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

“Purchaser” means the initial purchaser or purchasers of the Bonds.

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

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

“Record Date” means Record Date as defined in the FORM OF BOND.

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

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

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

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

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

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

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

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

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

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

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

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

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

“System Funds” means, collectively, the Electric System Fund, the Wastewater System Fund and the Water System Fund.

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

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

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

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

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

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

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

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

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

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

(c) Designation of the Bonds. Each bond issued pursuant to this Ordinance shall be designated: “CITY OF DENTON UTILITY SYSTEM REVENUE REFUNDING BOND, SERIES 2023” with each Series of Bonds having a letter designation following the year, starting with “A”, and with such changes as designated by the Pricing Officer pursuant to Section 3. Initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, payable to the respective Registered Owners thereof (with the Initial Bond being made payable to the Purchaser as described in Section 27 hereof). The terms “Bonds” and “Series 2023 Bonds” as used herein shall mean and include collectively all bonds initially issued hereunder (the “Initial Bonds”) and all substitute bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto, and the term “Bond” shall mean any of the Bonds. The Bonds shall be in the respective principal amounts, shall be numbered, shall mature and be payable on the date or dates in each of the years and in the principal amounts, and shall bear interest to their respective dates of maturity or redemption prior to maturity at the rates per annum, as set forth in the Pricing Certificate.

SECTION 3. DELEGATION TO PRICING OFFICER.

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

terms and provisions thereof applicable to the Bonds, all of which shall be specified in the Pricing Certificate; provided that:

- (i) the aggregate original principal amount of the Bonds shall not exceed \$300,000,000;
- (ii) the maximum stated maturity of the Bonds shall not exceed 30 years from the date of issuance;
- (iii) the Bonds shall bear interest at a fixed rate, and the net effective interest rate on the Bonds shall not exceed the maximum net effective interest rate permitted by law to be paid on obligations issued or incurred by the Issuer in the exercise of its borrowing powers (prescribed by Chapter 1204, Texas Government Code, as amended);
- (iv) the delegation made hereby shall expire if not exercised by the Pricing Officer through execution of the Pricing Certificate on or prior to February 7, 2024; and
- (v) on or prior to delivery, the Bonds shall be rated by a Rating Agency for municipal securities in one of the four highest categories for long-term obligations.

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

SECTION 4. CHARACTERISTICS OF THE BONDS.

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

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

provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

(c) Authentication. Except as provided in subsection (g) of this Section, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for conversion and exchange. No additional ordinances, resolutions, orders or other instruments need be passed or adopted by the governing body of the Issuer or any other body or person so as to accomplish the foregoing conversion and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution and delivery of the substitute Bonds in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, the duty of conversion and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the converted and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

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

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

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

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

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

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

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

(k) Successor Securities Depository; Transfers Outside Book-Entry Only System. In the event that the Issuer determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the Issuer to DTC or that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Issuer shall (i) appoint a successor securities depository, qualified to act as such under Section 17A of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or

more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

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

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

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

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

(a) FORM OF BOND.

NO. R-

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF DENTON
UTILITY SYSTEM REVENUE REFUNDING BOND
SERIES 2023

PRINCIPAL
AMOUNT
\$

<u>Interest Rate</u>	<u>Delivery Date</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
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REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

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

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

thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Issuer. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

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

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

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

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

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

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

February 15,20__ (maturity) _____

February 15,20__ (maturity) _____

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

AT LEAST 30 days prior to the date fixed for any redemption of Bonds or portions thereof prior to maturity a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, at least 30 days prior to the date fixed for any such redemption, to the Registered Owner of each Bond to be redeemed at its address as it appeared on the 45th day prior to such redemption date; provided, however, that the failure of the Registered Owner to receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bond. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof that are to be so redeemed. If such written notice of redemption is sent and if due provision for such payment is made, all as provided above, the Bonds or portions thereof that are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being Outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bond shall be redeemed, a substitute Bond or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the Issuer, all as provided in the Bond Ordinance.

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

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented

and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the Issuer. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Bond or any portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date.

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

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

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

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

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

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

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

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

Secretary

President

(SEAL)

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

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

(To be executed if this Bond is not accompanied by an executed Registration Certificate
of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated:_____.

_____,
Paying Agent/Registrar

By: _____
Authorized Representative

(c) Form of Assignment.

ASSIGNMENT (Please print
or type clearly)

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

Transferee's Social Security or Taxpayer Identification Number: _____

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

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____
_____, attorney, to register the transfer of the within

Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____.

Signature Guaranteed:

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

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

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

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

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

Witness my signature and seal this _____.

Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(e) Initial Bond Insertions.

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

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

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

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

<u>Years</u>	<u>Principal Installments (\$)</u>	<u>Interest Rates (%)</u>
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(Information for the Bonds from the Pricing Certificate to be inserted)

The Issuer promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from _____, _____ at the respective Interest Rate per annum specified above. Interest is payable on _____, _____, and semiannually on each _____

and _____ thereafter to the date of payment of the principal installment specified above, or the date of redemption prior to maturity; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.”

C. The Initial Bond shall be numbered “T-1.”

SECTION 6. PLEDGE OF PLEDGED REVENUES.

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

(b) The Issuer hereby covenants and agrees that the Pledged Revenues are hereby irrevocably pledged to the payment and security of the Senior Lien Obligations, including the establishment and maintenance of the special funds confirmed, created, established and maintained for the payment and security thereof, all as hereinafter provided; and it is hereby ordered that the Senior Lien Obligations, and the interest thereon, shall constitute a lien on and pledge of the Pledged Revenues and be valid and binding without any physical delivery thereof or further act by the Issuer, and the lien created hereby on the Pledged Revenues for the payment and security of the Senior Lien Obligations, including the establishment and maintenance of the special funds created, confirmed, established and maintained for the payment and security thereof, shall be superior to the lien on and pledge of the Pledged Revenues securing payment of any Subordinate Lien Obligations heretofore or hereafter issued by the Issuer. The Senior Lien Obligations, and any interest payable thereon, are and shall be secured by and payable from a first lien on and pledge of the Pledged Revenues. The Senior Lien Obligations are not and will not be secured by or payable from a mortgage or deed of trust on any real, personal, or mixed properties constituting the System.

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

SECTION 7. SPECIAL FUNDS.

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

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

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

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

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

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

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

SECTION 9. FLOW OF FUNDS.

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

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

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

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

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

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

SECTION 10. INTEREST AND SINKING FUND.

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

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

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

(d) In allocating moneys on deposit in the Interest and Sinking Fund to pay the principal of, premium, if any, and interest on the Senior Lien Obligations as the same become due and payable among Senior Lien Obligations that are secured by a debt service reserve fund created pursuant to Section 11 and Senior Lien Obligations that are not secured by a debt service reserve fund, the Issuer shall not take amounts on deposit (including moneys or Reserve Credit Facilities) in the debt service reserve funds into account when making such allocations.

SECTION 11. DEBT SERVICE RESERVE FUNDS.

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

necessary to identify the Senior Lien Obligations it secures and to distinguish such debt service reserve fund from the debt service reserve funds created for the benefit of other Senior Lien Obligations. Each ordinance authorizing the issuance of Senior Lien Obligations that are to be secured by a debt service reserve fund shall specify the amount or a manner of calculating the amount to be held and maintained on deposit therein.

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

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

SECTION 13. DEFICIENCIES; EXCESS PLEDGED REVENUES.

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

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

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

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

Obligations issued. To the extent not invested, moneys in any fund established pursuant to this Ordinance shall be secured in the manner prescribed by law for securing funds of the Issuer.

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

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

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

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

(b) Issuer's Legal Authority. It is a duly created and existing home rule city of the State of Texas, and is duly authorized under the laws of the State of Texas to issue the Bonds; that all action on its part for the issuance of the Bonds has been duly and effectively taken, and that the Bonds in the hands of the Registered Owners thereof are and will be valid and enforceable special obligations of the Issuer in accordance with their terms.

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

(d) Liens. It will from time to time and before the same become delinquent pay and discharge all taxes, assessments and governmental charges, if any, which shall be lawfully imposed upon it, or the System; it will pay all lawful claims for rents, royalties, labor, materials and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the liens granted hereunder shall be fully preserved in the manner provided herein, and it will not create or suffer to be created any mechanic's, laborer's, materialman's or other lien or charge which might

or could be prior to the liens hereof, or do or suffer any matter or thing whereby the liens hereof might or could be impaired; provided, however, that no such tax, assessment or charge, and that no such claims which might be used as the basis of a mechanic's, laborer's, materialman's or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the Issuer.

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

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

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

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

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

(2). Any payments received by the Issuer under or in connection with any such lease, contract,

license, arrangement, easement or right in respect of the System or any part thereof shall constitute Gross Revenues.

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

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

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

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

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

(k) Records. It will keep proper books of record and account in which full, true and correct entries will be made of all dealings, activities and transactions relating to the System, the Pledged Revenues, and the funds created pursuant to this Ordinance, and all books, documents and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of a Registered Owner of Senior Lien Obligations; provided, that all books, documents, and vouchers relating to the City's electric system shall be

made available for inspection only to the extent required by law, including, without limitation, the provisions of Section 552.133 of the Texas Government Code.

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

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

SECTION 17. ISSUANCE OF ADDITIONAL SENIOR LIEN OBLIGATIONS.

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

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

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

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

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

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

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

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

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

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

Accountant's or Consulting Engineer's certification or opinion based on such change in rates and charges being in effect for the entire period covered by said Designated Financial Officer's, Accountant's or Consulting Engineer's certificate or opinion.

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

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

SECTION 18. [RESERVED].

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

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

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

SECTION 22. DEFEASANCE OF BONDS.

(a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "*Defeased Bond*") within the meaning of this Ordinance, except to the extent provided in subsection (c) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "*Future Escrow Agreement*") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the

Issuer with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the funds created and the revenues herein pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Bonds that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the Issuer expressly reserves the right to call the Defeased Bonds for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Bonds immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

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

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

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

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

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

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

of damage or mutilation of a Bond, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 26. COVENANTS REGARDING TAXABLE BONDS.

(a) To the extent required by the Code, and the rules and regulations of the United States Department of the Treasury, it shall be the duty of the Paying Agent/Registrar to report to the owners of the Taxable Bonds and the Internal Revenue Service (i) the amount of “reportable payments,” if any, subject to back up

withholding during each year and the amount of tax withheld, if any, with respect to the payments on the Taxable Bonds and (ii) the amount of interest or amount treated as interest, such as original issue discount, on the Taxable Bonds required to be included in the gross income of the owners thereof for federal income tax purposes.

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

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

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

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

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

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

appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 28. DEFAULT AND REMEDIES.

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

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

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

(b) Remedies for Default.

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

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

(c) Remedies Not Exclusive.

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

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

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

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the Issuer, shall be charged personally by the registered owners with any liability, or be

held personally liable to the registered owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

SECTION 29. COMPLIANCE WITH RULE 15c2-12.

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

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

“*MSRB*” means the Municipal Securities Rulemaking Board. “*Rule*”

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

means the United States Securities and Exchange Commission. (b)

Annual Reports.

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

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

(c) Event Notices.

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

1. Non-payment related defaults;
2. Modifications to rights of Registered Owners;
3. Bond calls;
4. Release, substitution, or sale of property securing repayment of the Bonds;

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

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

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

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

1. Principal and interest payment delinquencies;
2. Unscheduled draws on debt service reserves reflecting financial difficulties;
3. Unscheduled draws on credit enhancements reflecting financial difficulties;
4. Substitution of credit or liquidity providers, or their failure to perform;

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

6. Tender offers;
7. Defeasances;
8. Rating changes;

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

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

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

(d) Limitations, Disclaimers, and Amendments.

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

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

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

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

(v) Should the Rule be amended to obligate the Issuer to make filings with or provide notices to entities other than the MSRB, the Issuer hereby agrees to undertake such obligation with respect to the Bonds in accordance with the Rule as amended. The provisions of this Section may be amended by the Issuer from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Issuer, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the

Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the registered owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Issuer (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. The Issuer may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the Issuer so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

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

SECTION 30. METHOD OF AMENDMENT.

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

- (1) Make any change in the maturity of any of the Outstanding Senior Lien Obligations;
- (2) Reduce the rate of interest borne by any of the Outstanding Senior Lien Obligations;
- (3) Reduce the amount of the principal payable on the Outstanding Senior Lien Obligations;
- (4) Modify the terms of payment of principal of or interest on the Outstanding Senior Lien Obligations or impose any conditions with respect to such payment;
- (5) Affect the rights of the Registered Owners of less than all of the Senior Lien Obligations then Outstanding;

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 32. REDEMPTION OF REFUNDED NOTES.

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

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

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

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

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

SECTION 35. RULES OF CONSTRUCTION. That for all purposes of this Ordinance, unless the context requires otherwise, all references to designated Sections and other subdivisions are to the Sections and other subdivisions of this Ordinance. The words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision. Except where the context otherwise requires, terms defined in this Ordinance to impart the singular number shall be considered to include the plural number and vice versa. References to any named person means that party and its successors and assigns. References to any constitutional, statutory or regulatory provision means such provision as it exists on the date this Ordinance is adopted by the Issuer and any future amendments thereto or successor provisions thereof. Any reference to the payment of principal in this Ordinance shall be deemed to include the payment of Amortization Installments (if any). Any reference to “FORM OF BOND” shall refer to the form of the Bonds set forth in Section 5, as modified in a Pricing Certificate. The calculation of Average Annual Debt Service Requirements as may be required by this Ordinance shall be made at the beginning of each Year and shall be the sum of the Annual Debt Service Requirements due for the current and each subsequent Year in which the Senior Lien Obligations are outstanding divided by the number of such Years, or partial Years, if applicable. The words “owner” and “holder” and “bondholder”, as used in this Ordinance, shall mean the registered or beneficial owner of a Bond.

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

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

The motion to approve this Ordinance was made by _____ and seconded by _____.
This Ordinance was passed and approved by the following vote [__ – __]:

Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Jesse Davis, District 3:	_____	_____	_____	_____
VACANT, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

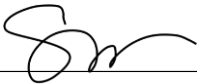
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PASSED, APPROVED AND EFFECTIVE this February 7, 2023.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY





City of Denton

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

Legislation Text

File #: PUB23-014, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive bids under IFB 8094 for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project; and providing an effective date (IFB 8094).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
INTERIM ACM: Cassey Ogden
DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, rejecting any and all competitive bids under IFB 8094 for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project; and providing an effective date (IFB 8094).

INFORMATION/BACKGROUND

The Capital Improvement Projects (CIP) Department solicited bids for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project, and after evaluation, the cost of the contract was determined to be more than anticipated. The Estimate At Completion for this project was \$23 million and received three bids ranging from \$35 to \$39 million.

During the solicitation process, there were 55 questions submitted by potential bidders resulting in multiple Addendums regarding missing and revised specifications and project plan sheets. Before the closing deadline, six (6) potential vendors expressed an intent to bid for this project, but only three (3) firms completed their submission before the closing deadline. The CIP staff believes that the lack of bid responses and overestimated bid pricing is due to the 18-month construction completion schedule and plan sheet discrepancies. Due to these issues, CIP staff recommends rejecting all bids and resoliciting the project as a Competitive Sealed Proposal, extending the construction schedule from 18 months to 24 months, and allowing the prospective bidders to provide their own traffic control/construction phasing.

In accordance with the Local Government Code 252.043, the City Council may reject any and all bids.

RECOMMENDATION

Staff recommends rejection of all bids for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance

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

For information concerning this acquisition, contact: Robin Davis, 940-349-7713.

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, REJECTING ANY AND ALL COMPETITIVE BIDS UNDER IFB 8094 FOR THE BONNIE BRAE PHASE 3 ROAD WIDENING AND RECONSTRUCTION PROJECT; AND PROVIDING AN EFFECTIVE DATE (IFB 8094).

WHEREAS, the City has solicited, received, and tabulated competitive bids to evaluate the potential for the Bonnie Brae Phase 3 Road Widening and Reconstruction Project; and

WHEREAS, the City staff recommends, and the City Council has determined, that it is in the best interest of the City that the herein described bids should be rejected; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. All competitive bids, as described in the “Invitation for Bids”, “Bid Proposals”, or plans and specifications on file in the Office of the City’s Purchasing Agent filed according to the bid number assigned herein (IFB 8094 – Bonnie Brae Phase 3 Road Widening and Reconstruction Project) are hereby rejected.

SECTION 2. The City Manager, or their designee, is hereby authorized to execute all necessary documents for the rejection of said bids. The City Manager, or their designee, is hereby authorized, in their discretion, to re-advertise to receive competitive bids, or proceed otherwise, to procure goods and services described in IFB 8094.

SECTION 3. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under the IFB 8094 to reject said proposals to the City Manager, or their designee.

SECTION 4. 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:	_____	_____	_____	_____
VACANT, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2023.

GERARD HUDSPETH, MAYOR

ATTEST:
ROSA RIOS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn
Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o=City
of Denton,
email=marcella.lunn@cityofdenton.com, c=US
Date: 2023.01.09 14:52:52 -06'00'



City of Denton

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

Legislation Text

File #: PUB23-015, Version: 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Professional Services Agreement between the City of Denton and Solutient GeoSciences, Inc., amending the contract approved by the City Council on January 28, 2020, in the not-to-exceed amount of \$321,415.00; said first amendment to continue to provide hydrogeological and analytical services regarding the City's Landfill monitoring and reporting requirements; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7109-005 - providing for an additional first amendment expenditure amount not-to-exceed \$116,202.00, with the total contract amount not-to-exceed \$437,617.00).



City of Denton

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

DEPARTMENT: Procurement
INTERIM ACM: Cassey Ogden
DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a Professional Services Agreement between the City of Denton and Solutient GeoSciences, Inc., amending the contract approved by the City Council on January 28, 2020, in the not-to-exceed amount of \$321,415.00; said first amendment to continue to provide hydrogeological and analytical services regarding the City's Landfill monitoring and reporting requirements; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7109-005 – providing for an additional first amendment expenditure amount not-to-exceed \$116,202.00, with the total contract amount not-to-exceed \$437,617.00).

INFORMATION/BACKGROUND

In accordance with Texas Commissions on Environmental Quality (TCEQ), approved Groundwater Sampling and Analysis Plan (GWSAP), and 30 TAC 330, Subchapter F and J, the landfill is required to conduct quarterly and semi-annual groundwater monitoring events. Failure to conduct the required groundwater sampling can lead to the revocation of the City's landfill permit, which authorizes Solid Waste to process and dispose of waste.

This amendment is to add additional items to the scope of services, which includes hydrogeological consulting, analytical services, software upgrades, an annual detection groundwater monitoring report, and a background statistical evaluation report.

Request for Qualifications for professional engineering services was solicited using the City's formal solicitation process. City Council approved a pre-qualified list of engineering firms on October 8, 2019 (Ordinance 19-2305).

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On October 8, 2019, City Council approved RFQ 7109 for a prequalified list of professional engineering firms (Ordinance 19-2305).

On January 29, 2020, City Council approved a Professional Services Agreement with Solutient GeoSciences, Inc., in the not-to-exceed amount of \$321,415 (Ordinance 20-193).

RECOMMENDATION

Award Amendment No. 1 with Solutient GeoSciences, Inc., to continue to provide hydrogeological and analytical services regarding the City's Landfill monitoring and reporting requirements, in a not-to-exceed amount of \$116,202, for a total amended contract amount of \$437,617.

PRINCIPAL PLACE OF BUSINESS

Solutient GeoSciences, Inc.
Tyler, TX

ESTIMATED SCHEDULE OF PROJECT

This project will be started upon approval with an approximate completion date of January 28, 2024.

FISCAL INFORMATION

These services will be funded from Solid Waste Department's operating fund accounts. Requisitions will be entered on an as-needed basis. The total amended amount of this contract is \$437,617.

EXHIBITS

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

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

For information concerning this acquisition, contact: Brian Boerner, 940-349-9001.

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

ORDINANCE NO. 20-193

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH SOLUTIENT GEOSCIENCES, INC., FOR LANDFILL HYDROGEOLOGICAL CONSULTING AND ANALYTICAL SERVICES REGARDING THE CITY'S LANDFILL MONITORING AND REPORTING REQUIREMENTS AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7109-005 – PROFESSIONAL SERVICES AGREEMENT FOR CONSULTING AND ANALYTICAL SERVICES AWARDED TO SOLUTIENT GEOSCIENCES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$321,415).

WHEREAS, on October 8, 2019, the City Council approved a pre-qualified professional and engineer list (Ordinance 19-2305), and the professional services provider (the "Provider") mentioned in this ordinance is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, 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 is hereby authorized to enter into an agreement with Solutient GeoSciences, Inc., to provide professional consulting and analytical services for the City of Denton, a copy of which is attached hereto and incorporated by reference herein.

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

SECTION 3. The City Council of the City of Denton, hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or his 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 PAUL MELTZER and seconded by KEELY BRIGGS, the ordinance was passed and approved by the following vote [6 - 0]:

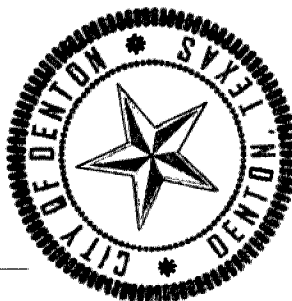
	Aye	Nay	Abstain	Absent
Mayor Chris Watts:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Gerard Hudspeth, District 1:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Keely G. Briggs, District 2:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Jesse Davis, District 3:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
John Ryan, District 4:	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Deb Armintor, At Large Place 5:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Paul Meltzer, At Large Place 6:	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

PASSED AND APPROVED this the 28th day of January, 2020.


CHRIS WATTS, MAYOR

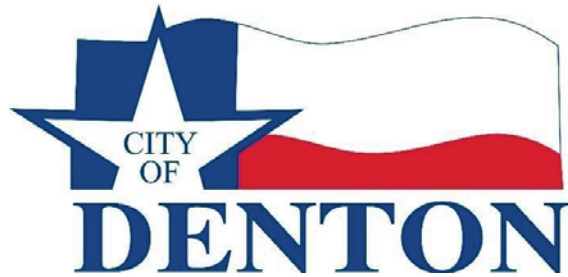
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 



APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

BY: 



DocuSign City Council Transmittal Coversheet

PSA	7109-005
File Name	Hydrogeological Consulting & Analytical Services
Purchasing Contact	Jody Word
City Council Target Date	January 28, 2020
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	20-193

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTING SERVICES
FILE 7109-005**

STATE OF TEXAS §

COUNTY OF DENTON §

THIS AGREEMENT (the "Agreement") is made and entered into on 01/28/2020, 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 Solutient GeoSciences, Inc., with its corporate office at 3800 Paluxy Drive, Suite 260, Tyler, Texas 75703, 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, Landfill Hydrogeological Consulting and Analytical Services, as described in **Exhibit A**.

**ARTICLE II
SCOPE OF BASIC SERVICES**

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

- A. To perform all those services set forth in CONSULTANT's proposal, which proposal is attached hereto and made a part hereof as **Exhibit A** as if written word for word herein.
- B. CONSULTANT shall perform all those services set forth in individual task orders, as described in **Exhibit A**, which shall be attached to this Agreement and made a part hereof.
- C. 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 A**.

- 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 A**.
- 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 A**. 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 A** 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 **\$321,415**.

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 A**. 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**

THE CONSULTANT SHALL INDEMNIFY AND SAVE AND HOLD HARMLESS THE OWNER AND ITS OFFICERS, OFFICIALS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, DEMANDS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING, BUT NOT LIMITED TO COURT COSTS AND REASONABLE ATTORNEY FEES ASSERTED AGAINST OR INCURRED BY THE OWNER, AND INCLUDING, WITHOUT LIMITATION, DAMAGES FOR BODILY AND PERSONAL INJURY, DEATH AND PROPERTY DAMAGE, RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE CONSULTANT OR ITS OFFICERS, SHAREHOLDERS, AGENTS, OR EMPLOYEES INCIDENTAL TO, RELATED TO, AND IN THE EXECUTION, OPERATION, OR PERFORMANCE OF THIS AGREEMENT.

Nothing in this Agreement shall be construed to create a liability to any person who is not a party to this Agreement, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to this Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved.

ARTICLE IX **INSURANCE**

During the performance of the services under this Agreement, CONSULTANT shall maintain insurance in compliance with the requirements of **Exhibit B** 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:

Solutient GeoSciences, Inc.
Leslie A. Jeske, P.G.
3800 Paluxy Drive, Suite 260

To OWNER:

City of Denton
Purchasing Manager –File 7109-005
901B Texas Street

Tyler, Texas 75703

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 – Consultant’s Scope of Services Offer, Compensation Rate and Project Schedule

Exhibit B – 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 Leslie A. Jeske. 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

Supplier acknowledges that in accordance with Chapter 2270 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Supplier certifies that Supplier's signature provides written verification to the City that Supplier: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

ARTICLE XXV

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

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

ARTICLE XXVI

CERTIFICATE OF INTERESTED PARTIES ELECTRONIC FILING

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

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

The contractor shall:

1. Log onto the State Ethics Commission Website at :
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line. (EX: Contract 1234 – Form 1295)

The 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 XXVII
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 Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

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 01/28/2020.

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

DocuSigned by:
Brian Boerner Brian Boerner
DCD14331B89A4A9...
SIGNATURE PRINTED NAME

Director of Solid Waste

TITLE

Solid Waste

DEPARTMENT

CITY OF DENTON, TEXAS
"OWNER"

DocuSigned by:
Todd Hileman
E776C711BA0D454...
TODD HILEMAN, CITY MANAGER

ATTEST:
CITY SECRETARY

BY: DocuSigned by:
Rosa Rios
1C5CA8C5E175493...

SOLUTIENT GEOSCIENCE, INC.,
A TEXAS CORPORATION
"CONSULTANT"

DocuSigned by:
Leslie A. Jeske
849D0FF8C3F3477...

BY: Leslie A. Jeske

ITS: President

2020-582137

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

DocuSigned by:
BY: Mack Peinwand
7F9D328BF0204E5...

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

Consultant's Scope of Services Offer and Project Schedule

Solutient GeoSciences, Inc.

3800 Paluxy Drive, Suite 260
Tyler, Texas 75703
(903) 581-4340 Tel (903) 581-4399 Fax

November 21, 2019

Ami Reeder
Regulatory Compliance Manager
City of Denton
1527 S. Mayhill Road
Denton, Tx. 76208

Re: Proposal
2020-2022 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590A)
1527 S. Mayhill Road
Denton (Denton County), Texas

Dear Ms. Reeder:

In accordance with your recent request, Solutient GeoSciences, Inc. (Solutient) is pleased to submit the following proposal for providing hydrogeological consulting and analytical services at the City of Denton (City) landfill for a 3-year period commencing January 1, 2020 and ending December 31, 2022 with two 1-year extensions for a total of five years. Solutient will serve as the City's professional services consultant relative to all landfill groundwater monitoring, data review, reporting, and general geological and hydrogeological services, as needed, for the above referenced facility.

Scope of Services

As we understand it, the work will consist of conducting quarterly and semi-annual groundwater monitoring events and reporting in accordance with the existing Texas Commission on Environmental Quality (TCEQ) approved Groundwater Sampling and Analysis Plan (GWSAP) and 30 TAC, Chapter 330, Subchapters F and J. The following discussion provides a detailed explanation of the services to be provided.

- Hydrogeological Consulting - includes 1) generation and on-going maintenance of existing groundwater analytical data base, 2) management and direct supervision of groundwater monitoring events, 3) review of analytical data, 4) preparation of annual groundwater monitoring reports, including groundwater contour maps and semi-annual statistical evaluations, 4) evaluation and submittal of site-appropriate statistical analysis method(s), and 5) correspondence with TCEQ regarding groundwater issues. The City will be continually informed of all monitoring results and provided on-going recommendations and opinions

Ami Reeder, City of Denton
 November 21, 2019
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- regarding necessary action, if needed.
- Analytical Services - includes sampling and analysis of groundwater samples collected at landfill facility in accordance with the TCEQ-approved GWSAP. A total of twenty groundwater monitoring wells, which comprise the facility (MSW Permit No. 1590A) groundwater monitoring system, will be gauged, purged, and sampled using dedicated, low-flow pumps and a Well Wizard® micropurge system. The wells will be sampled semi-annually for detection monitoring constituents, which are presented in Table 5-1, GWSAP. Also included in the work plan is a provision for up to two verification re-sampling/assessment monitoring events at up to three monitoring wells per year. Assessment samples would be analyzed for 40 CFR Part 258 Appendix II constituents. Lastly, four leachate samples will be collected and analyzed for necessary pre-treatment constituents, as required by the waste water treatment plant and the landfill re-circulation requirements. All analyses will be performed using EPA-approved methods by a TCEQ-accredited analytical laboratory.
 - Sanitas™ for Ground Water Maintenance Agreement - provides for annual upgrades and software support of Sanitas™, a statistical analysis software package used to perform statistical evaluation of groundwater quality data.
 - Annual Detection Groundwater Monitoring Report - includes preparation of annual detection and assessment groundwater monitoring report.
 - Background Statistical Evaluation Report - perform evaluation of most recent 2-year period of analytical data in 2020 and incorporate into background data, as appropriate.
 - Contingency Funding - includes a provision for contingency funds for the possibility of additional wells to be included for assessment monitoring in the event any facility well enters assessment monitoring as per recent regulatory requirements and implementation procedures.

All services provided will be coordinated and performed under the direct supervision of Mr. Leslie A. Jeske, P.G., Hydrogeologist. Mr. Jeske has served as the primary groundwater consultant at the City's landfill since 1999.

Low-flow purging and sampling activities will be conducted using instruments and equipment owned and maintained by the City. In the event the instruments are found in need of repair, the City will be promptly notified to insure minimal delays in completing the scheduled monitoring events. The City will be responsible for all costs associated with repairs and on-going maintenance.

Cost Estimate

Based upon the above scope of services and our understanding of the project, we have prepared the attached Probable Cost Estimate which shows the estimated quantities of work and unit fees. It is estimated that the total amount of this contract for January 1, 2020 -

Ami Reeder, City of Denton
November 21, 2019
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December 31, 2022 should not exceed \$ 321,415.00. In the event additional services are required beyond those detailed in this contract, such will be performed on a time and materials basis at the unit rates as shown on the Probable Cost Estimate.

You will be notified if unforeseen conditions are encountered or there is a necessity to change the scope of work. Additional work will not be performed without first obtaining your approval of the additional costs. An invoice will be submitted on a monthly basis for the percent of work completed for each event. It will be based upon the actual work performed and the unit prices shown in the attached Probable Cost Estimate.

If you have any questions after reviewing this proposal, please do not hesitate to contact me at (903) 581-4340. As always, we look forward to working with the City in this endeavor.

Very truly yours,
Solutient GeoSciences, Inc.

A handwritten signature in black ink, appearing to read "Leslie A. Jeske".

Leslie A. Jeske, P.G.
Hydrogeologist

Attach: Probable Cost Estimate

PROBABLE COST ESTIMATE

November 21, 2019

2020-2022 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590A)
Denton (Denton County), Texas

Item	Quantity	Unit	Unit Rate	Cost
March 2020 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 190.00	\$ 5,130.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 190.00	\$ 3,420.00
Environmental Technician	60	hour	\$ 110.00	\$ 6,600.00
Subsistence	4	day	\$ 175.00	\$ 700.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells and 7 QC samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Table 5-1 and Pre-Treatment Constituents (4 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 31,861.00
June 2020 Quarterly Verification Re-sampling, & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 190.00	\$ 1,520.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 190.00	\$ 2,280.00
Environmental Technician	34	hour	\$ 110.00	\$ 3,740.00
Subsistence	2	day	\$ 175.00	\$ 350.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 2 QC sample)	5	each	\$ 339.00	\$ 1,695.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 16,065.00
September 2020 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 190.00	\$ 5,130.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 190.00	\$ 3,420.00
Environmental Technician	60	hour	\$ 110.00	\$ 6,600.00
Subsistence	4	day	\$ 175.00	\$ 700.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells and 7 QC samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Table 5-1 and Pre-Treatment Constituents (4 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 31,861.00
2020 Annual Detection and Assessment Monitoring Report:				
Hydrogeologist	25	hour	\$ 190.00	\$ 4,750.00
Subtotal:				\$ 4,750.00
2020 Groundwater Statistical Analysis Software:				
Sanitas for Groundwater Software Annual Maintenance Agreement (cost +15%)	1	LS	\$ 450.00	\$ 450.00
Subtotal:				\$ 450.00
2020 Update to Background Statistical Evaluation Report:				
Hydrogeologist	25	hour	\$ 190.00	\$ 4,750.00
Subtotal:				\$ 4,750.00
2020 Contingency Funds:				
Subtotal:				\$ 2,500.00
2020 TOTAL:				\$ 92,237.00
December 2020 Quarterly Verification Re-sampling & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 190.00	\$ 1,520.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 190.00	\$ 2,280.00
Environmental Technician	34	hour	\$ 110.00	\$ 3,740.00
Subsistence	2	day	\$ 175.00	\$ 350.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 2 QC sample)	5	each	\$ 339.00	\$ 1,695.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 16,065.00

PROBABLE COST ESTIMATE

November 21, 2019

2020-2022 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590A)
Denton (Denton County), Texas

March 2021 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 195.00	\$ 5,265.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 195.00	\$ 3,510.00
Environmental Technician	60	hour	\$ 115.00	\$ 6,900.00
Subsistence	4	day	\$ 180.00	\$ 720.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 32,406.00
June 2021 Quarterly Verification Re-sampling, & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 195.00	\$ 1,560.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 195.00	\$ 2,340.00
Environmental Technician	34	hour	\$ 115.00	\$ 3,910.00
Subsistence	2	day	\$ 180.00	\$ 360.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 339.00	\$ 1,356.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 16,006.00
September 2021 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 195.00	\$ 5,265.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 195.00	\$ 3,510.00
Environmental Technician	60	hour	\$ 115.00	\$ 6,900.00
Subsistence	4	day	\$ 180.00	\$ 720.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 32,406.00
2021 Annual Detection Monitoring Report:				
Hydrogeologist	20	hour	\$ 195.00	\$ 3,900.00
Subtotal:				\$ 3,900.00
2021 Groundwater Statistical Analysis Software:				
Sanitas for Groundwater Software Annual Maintenance Agreement (cost +15%)	1	LS	\$ 475.00	\$ 475.00
Subtotal:				\$ 475.00
2021 Contingency Funds:				
Subtotal:				\$ 2,500.00
2021 TOTAL:				\$ 103,758.00
December 2021 Quarterly Verification Re-sampling & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 195.00	\$ 1,560.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 195.00	\$ 2,340.00
Environmental Technician	34	hour	\$ 115.00	\$ 3,910.00
Subsistence	2	day	\$ 180.00	\$ 360.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 339.00	\$ 1,356.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 16,006.00
March 2022 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 200.00	\$ 5,400.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 200.00	\$ 3,600.00

PROBABLE COST ESTIMATE

November 21, 2019

2020-2022 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590A)
Denton (Denton County), Texas

Environmental Technician	60	hour	\$ 120.00	\$ 7,200.00
Subsistence	4	day	\$ 185.00	\$ 740.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 32,951.00
June 2022 Quarterly Verification Re-sampling, & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 200.00	\$ 1,600.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 200.00	\$ 2,400.00
Environmental Technician	34	hour	\$ 120.00	\$ 4,080.00
Subsistence	2	day	\$ 185.00	\$ 370.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 339.00	\$ 1,356.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 16,286.00
September 2022 Semi-Annual Detection/Background Monitoring Event:				
Statistical Evaluation and Reporting	27	hour	\$ 200.00	\$ 5,400.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 200.00	\$ 3,600.00
Environmental Technician	60	hour	\$ 120.00	\$ 7,200.00
Subsistence	4	day	\$ 185.00	\$ 740.00
Sampling Vehicle	5	day	\$ 70.00	\$ 350.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 339.00	\$ 9,831.00
Assessment Appendix II Constituents (MW-4U & 1 QC sample)	2	each	\$ 1,200.00	\$ 2,400.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 790.00	\$ 3,160.00
Subtotal:				\$ 32,951.00
2022 Annual Detection Monitoring Report:				
Hydrogeologist	20	hour	\$ 200.00	\$ 4,000.00
Subtotal:				\$ 4,000.00
2022 Groundwater Statistical Analysis Software:				
Sanitas for Groundwater Software Annual Maintenance Agreement (cost +15%)	1	LS	\$ 475.00	\$ 475.00
Subtotal:				\$ 475.00
2022 Update to Background Statistical Evaluation Report:				
Hydrogeologist	25	hour	\$ 195.00	\$ 4,875.00
Subtotal:				\$ 4,875.00
2022 Contingency Funds:				
Subtotal:				\$ 2,500.00
2022 TOTAL:				\$ 110,044.00
December 2022 Quarterly Verification Re-sampling & Assessment Monitoring Event:				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring)	8	hour	\$ 180.00	\$ 1,440.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 180.00	\$ 2,160.00
Environmental Technician	34	hour	\$ 105.00	\$ 3,570.00
Subsistence	2	day	\$ 185.00	\$ 370.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	450	mile	\$ 0.60	\$ 270.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 339.00	\$ 1,356.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,200.00	\$ 6,000.00
Subtotal:				\$ 15,376.00
TOTAL:				\$ 321,415.00

Notes:

1. Scope of work allows for two (2) assessment monitoring events with a total of three (3) wells each.
2. Additional work will be performed upon authorization by the City of Denton utilizing the unit rates as shown above.

Exhibit B

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

- 2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The contractor shall retain all required certificates of coverage for the duration of the project 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.

Exhibit ^C

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

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

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

1 Name of vendor who has a business relationship with local governmental entity. Solutient GeoSciences, Inc.

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

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

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

None

Name of Officer

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

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

☐

Yes

☒

No

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

☐

Yes

☒

No

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

☐

Yes

☒

No

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

N/A

4 ☒ I have no Conflict of Interest to disclose.

5 DocuSigned by: Leslie A. Jeske 12/19/2019

849D0FF8C3F3477...

business with the governmental entity

Date

Certificate Of Completion


Envelope Id: E0FFFD1FC7EF41A9B4FA39D4AF695C9D	Status: Completed
Subject: Please DocuSign: City Council Contract 7109-005 Hydrogeological Consulting & Analytical Services	
Source Envelope:	
Document Pages: 27	Signatures: 6
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Laura Hermosillo
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	laura.hermosillo@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

Status: Original	Holder: Laura Hermosillo	Location: DocuSign
12/17/2019 9:45:17 AM	laura.hermosillo@cityofdenton.com	

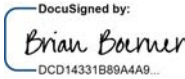
Signer Events

Signer Events	Signature	Timestamp
Laura Hermosillo laura.hermosillo@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	Completed Using IP Address: 129.120.6.150	Sent: 12/17/2019 10:11:01 AM Viewed: 12/17/2019 10:11:10 AM Signed: 12/17/2019 10:11:16 AM

Lori Hewell lori.hewell@cityofdenton.com Purchasing Manager City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 12/17/2019 10:11:18 AM Viewed: 12/17/2019 1:01:13 PM Signed: 12/17/2019 1:04:11 PM
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Mack Reinwand mack.reinwand@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 12/17/2019 1:04:13 PM Viewed: 12/19/2019 2:41:57 PM Signed: 12/19/2019 2:52:14 PM
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Leslie A. Jeske ljeske@solutientgeosciences.com President Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/19/2019 2:52:41 PM ID: 18f5b547-4667-4f73-a69a-b8a94ec71f88	 Signature Adoption: Pre-selected Style Using IP Address: 75.109.193.73	Sent: 12/19/2019 2:52:17 PM Viewed: 12/19/2019 2:52:41 PM Signed: 12/19/2019 2:56:40 PM
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Signer Events	Signature	Timestamp
Brian Boerner Brian.Boerner@cityofdenton.com Director of Solid Waste Security Level: Email, Account Authentication (None)	 DocuSigned by: Brian Boerner DCD14331B89A4A9... Signature Adoption: Pre-selected Style Using IP Address: 129.120.6.150	Sent: 12/19/2019 2:56:43 PM Viewed: 12/19/2019 2:57:44 PM Signed: 12/19/2019 3:40:03 PM

Electronic Record and Signature Disclosure:
 Accepted: 12/19/2019 2:57:44 PM
 ID: 1e418773-4c65-4ebe-a04b-ef29a0d85eeb

Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Contract Administrator

City of Denton
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Todd Hileman
 Todd.Hileman@cityofdenton.com
 City Manager
 City of Denton

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Accepted: 7/25/2017 11:02:14 AM
 ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21

Rosa Rios
 rosa.rios@cityofdenton.com
 City Secretary

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Accepted: 1/29/2020 12:11:02 PM
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Completed

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 Signed: 1/29/2020 9:44:09 AM


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 Todd Hileman
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Signature Adoption: Pre-selected Style
 Using IP Address: 107.77.200.80
 Signed using mobile

Sent: 1/29/2020 9:44:13 AM
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 Signed: 1/29/2020 10:01:52 AM


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 Rosa Rios
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Signature Adoption: Pre-selected Style
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Person Signer Events	Signature	Timestamp
Editor Deliver Events	Status	Timestamp
Agent Deliver Events	Status	Timestamp
Intermediary Deliver Events	Status	Timestamp
Certified Deliver Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Contract Administrator
 City of Denton
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

COPIED

Sent: 12/17/2019 10:11:18 AM

Carion Cop Events	Status	Timestamp
Not Offered via DocuSign		
<p>Sherri Thurman sherri.thurman@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 12/19/2019 3:40:05 PM
<p>Jane Richardson jane.richardson@cityofdenton.com Assistant City Secretary City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	<p>Sent: 1/29/2020 9:44:12 AM</p> <p>Viewed: 1/29/2020 11:35:39 AM</p>
<p>Zolaina Parker Zolaina.Parker@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/29/2020 9:44:12 AM
<p>Ami Reeder Ami.Reeder@cityofdenton.com Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	<p>Sent: 1/29/2020 12:11:39 PM</p> <p>Viewed: 1/29/2020 12:30:54 PM</p>
<p>Jody Word jody.word@cityofdenton.com Senior Buyer City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	Sent: 1/29/2020 12:11:40 PM

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Envelope Summar Events	Status	Timestamps
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Signing Complete	Security Checked	1/29/2020 12:11:40 PM
Completed	Security Checked	1/29/2020 12:11:40 PM

ament Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DENTON AND SOLUTIENT GEOSCIENCES, INC., AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON JANUARY 28, 2020, IN THE NOT-TO-EXCEED AMOUNT OF \$321,415.00; SAID FIRST AMENDMENT TO CONTINUE TO PROVIDE HYDROGEOLOGICAL AND ANALYTICAL SERVICES REGARDING THE CITY'S LANDFILL MONITORING AND REPORTING REQUIREMENTS; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7109-005 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$116,202.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$437,617.00).

WHEREAS, on October 8, 2019, the City Council approved a pre-qualified professional and engineer list (Ordinance 19-2305); and

WHEREAS, on January 28, 2020, City Council awarded a contract to Solutient GeoSciences, Inc. in the amount of \$321,415.00, for landfill hydrogeological consulting and analytical services regarding the City's Landfill monitoring and reporting requirements; and

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The First Amendment, increasing the amount of the contract between the City and Solutient GeoSciences, Inc., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Sixteen Thousand Two Hundred Two and 0/100 (\$116,202.00) Dollars, is hereby approved, and the expenditure of funds therefor is hereby authorized in accordance with said amendment which shall be effective upon the execution of the amendment attached hereto. The total contract amount increases to \$437,617.00.

SECTION 2. This ordinance shall become effective immediately upon its passage and approval.

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

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


PASSED AND APPROVED this the _____ day of _____, 2023.

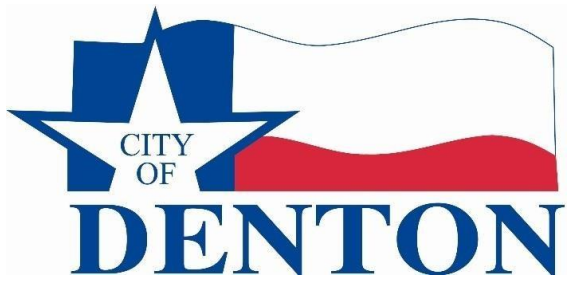
GERARD HUDSPETH, MAYOR

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@cityofdent
on.com, c=US
Date: 2023.01.12 22:09:16 -06'00'



Docusign City Council Transmittal Coversheet

PSA	7109-005
File Name	Groundwater Services, Amendment 1
Purchasing Contact	Christa Christian
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND SOLUTIENT GEOSCIENCES, INC.
PSA 7109-005**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 7109-005 (“Amendment”) by and between the City of Denton, Texas (“City”) and **SOLUTIENT GEOSCIENCES, INC.** (“Consultant”); to that certain contract executed on January 28, 2020, in the original not-to-exceed amount of \$321,415 (the “Agreement”); for services related to **hydrogeological consulting and analytical services (Ground Water Services)**.

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$116,202 with this Amendment for an aggregate not-to-exceed amount of **\$437,617** and

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Consultant to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the **hydrogeological consulting and analytical services (Ground Water Services)**, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the City agrees to pay, based on the cost estimate detail attached as Exhibit “A” a total fee, including reimbursement for non-labor expenses an amount not to exceed \$116,202.
2. This Amendment modifies the Agreement amount to provide an additional \$116,202 for the additional services with a revised aggregate not to exceed total of \$437,617.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

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

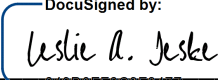
“CITY”

“CONSULTANT”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

SOLUTIENT GEOSCIENCES, INC.

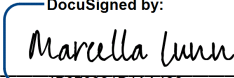
By: _____

By: 
849D0FF8C3F3477...
AUTHORIZED SIGNATURE, TITLE

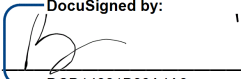
ATTEST:
ROSA RIOS, CITY SECRETARY

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By: _____

By: 
4B070831B4AA438...
AUTHORIZED SIGNATURE, TITLE

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


DCP14334B893440...
SIGNATURE Brian Boerner
PRINTED NAME

Director of Solid Waste
TITLE

SWR
DEPARTMENT

Solutient GeoSciences, Inc.

3800 Paluxy Drive, Suite 260
Tyler, Texas 75703
(903) 581-4340 Tel (903) 581-4399 Fax

June 14, 2022

Ami Reeder
Regulatory Compliance Manager
City of Denton
1527 S. Mayhill Road
Denton, Tx. 76208

Re: Proposal
2023 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590A)
1527 S. Mayhill Road
Denton (Denton County), Texas

Dear Ms. Reeder:

In accordance with your recent request, Solutient GeoSciences, Inc. (Solutient) is pleased to submit the following proposal for providing hydrogeological consulting and analytical services at the City of Denton (City) landfill for a 1-year extension period commencing January 1, 2023 and ending December 31, 2023 for the existing professional services agreement 7109-005. Solutient will serve as the City's professional services consultant relative to all landfill groundwater monitoring, data review, reporting, and general geological and hydrogeological services, as needed, for the above referenced facility.

Scope of Services

As we understand it, the work will consist of conducting quarterly and semi-annual groundwater monitoring events and reporting in accordance with the existing Texas Commission on Environmental Quality (TCEQ) approved Groundwater Sampling and Analysis Plan (GWSAP) and 30 TAC, Chapter 330, Subchapters F and J. The following discussion provides a detailed explanation of the services to be provided.

- Hydrogeological Consulting - includes 1) generation and on-going maintenance of existing groundwater analytical data base, 2) management and direct supervision of groundwater monitoring events, 3) review of analytical data, 4) preparation of annual groundwater monitoring reports, including groundwater contour maps and semi-annual statistical evaluations, 4) evaluation and submittal of site-appropriate statistical analysis method(s), and 5) correspondence with TCEQ regarding groundwater issues. The City will be continually informed of all monitoring results and provided on-going recommendations and opinions

Ami Reeder, City of Denton

June 14, 2022

Page 2

regarding necessary action, if needed.

- Analytical Services - includes sampling and analysis of groundwater samples collected at landfill facility in accordance with the TCEQ-approved GWSAP. A total of twenty groundwater monitoring wells, which comprise the facility (MSW Permit No. 1590A) groundwater monitoring system, will be gauged, purged, and sampled using dedicated, low-flow pumps and a Well Wizard® micropurge system. The wells will be sampled semi-annually for detection monitoring constituents, which are presented in Table 5-1, GWSAP. Also included in the work plan is a provision for up to two verification re-sampling/assessment monitoring events at up to three monitoring wells per year. Assessment samples would be analyzed for 40 CFR Part 258 Appendix II constituents. Lastly, four leachate samples will be collected and analyzed for necessary pre-treatment constituents, as required by the waste water treatment plant and the landfill re-circulation requirements. All analyses will be performed using EPA-approved methods by a TCEQ-accredited analytical laboratory.
- Sanitas™ for Ground Water Maintenance Agreement - provides for annual upgrades and software support of Sanitas™, a statistical analysis software package used to perform statistical evaluation of groundwater quality data.
- Annual Detection Groundwater Monitoring Report - includes preparation of annual detection and assessment groundwater monitoring report.
- Background Statistical Evaluation Report - perform evaluation of most recent 2-year period of analytical data in 2020 and incorporate into background data, as appropriate.
- Contingency Funding - includes a provision for contingency funds for the possibility of additional wells to be included for assessment monitoring in the event any facility well enters assessment monitoring as per recent regulatory requirements and implementation procedures.

All services provided will be coordinated and performed under the direct supervision of Mr. Leslie A. Jeske, P.G., Hydrogeologist. Mr. Jeske has served as the primary groundwater consultant at the City's landfill since 1999.

Low-flow purging and sampling activities will be conducted using instruments and equipment owned and maintained by the City. In the event the instruments are found in need of repair, the City will be promptly notified to insure minimal delays in completing the scheduled monitoring events. The City will be responsible for all costs associated with repairs and on-going maintenance.

Cost Estimate

Based upon the above scope of services and our understanding of the project, we have prepared the attached Probable Cost Estimate which shows the estimated quantities of work and unit fees. It is estimated that the total amount of this contract for January 1, 2023 -

Ami Reeder, City of Denton
June 14, 2022
Page 3

December 31, 2023 should not exceed \$ 116,202.00. In the event additional services are required beyond those detailed in this contract, such will be performed on a time and materials basis at the unit rates as shown on the Probable Cost Estimate.

You will be notified if unforeseen conditions are encountered or there is a necessity to change the scope of work. Additional work will not be performed without first obtaining your approval of the additional costs. An invoice will be submitted on a monthly basis for the percent of work completed for each event. It will be based upon the actual work performed and the unit prices shown in the attached Probable Cost Estimate.

If you have any questions after reviewing this proposal, please do not hesitate to contact me at (903) 581-4340. As always, we look forward to working with the City in this endeavor.

Very truly yours,
Solutient GeoSciences, Inc.
Texas Geoscience Firm Registration No. 50004

A handwritten signature in black ink, appearing to read "Leslie A. Jeske".

Leslie A. Jeske, P.G.
Hydrogeologist, License No. 670

Attach: Probable Cost Estimate

PROBABLE COST ESTIMATE
June 14, 2022

2023 Landfill Hydrogeological Consulting and Analytical Services
City of Denton Landfill (MSW Permit No. 1590B)
Denton (Denton County), Texas

Item	Quantity	Unit	Unit Rate	Cost
<i>March 2023 Semi-Annual Detection/Background Monitoring Event:</i>				
Statistical Evaluation and Reporting:	27	hour	\$ 205.00	\$ 5,535.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 205.00	\$ 3,690.00
Environmental Technician	60	hour	\$ 120.00	\$ 7,200.00
Subsistence	4	day	\$ 185.00	\$ 740.00
Sampling Vehicle	5	day	\$ 75.00	\$ 375.00
Mileage	375	mile	\$ 0.68	\$ 255.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 345.00	\$ 10,005.00
Assessment Appendix II Constituents (3 wells)	3	each	\$ 1,295.00	\$ 3,885.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 844.00	\$ 3,376.00
			Subtotal:	\$ 35,061.00
<i>June 2023 Quarterly Verification Re-sampling, & Assessment Monitoring Event:</i>				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring):	8	hour	\$ 205.00	\$ 1,640.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 205.00	\$ 2,460.00
Environmental Technician	34	hour	\$ 120.00	\$ 4,080.00
Subsistence	2	day	\$ 185.00	\$ 370.00
Sampling Vehicle	3	day	\$ 70.00	\$ 210.00
Mileage	375	mile	\$ 0.68	\$ 255.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 345.00	\$ 1,380.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,295.00	\$ 6,475.00
			Subtotal:	\$ 16,870.00
<i>September 2023 Semi-Annual Detection/Background Monitoring Event:</i>				
Statistical Evaluation and Reporting:	27	hour	\$ 205.00	\$ 5,535.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	18	hour	\$ 205.00	\$ 3,690.00
Environmental Technician	60	hour	\$ 120.00	\$ 7,200.00
Subsistence	4	day	\$ 185.00	\$ 740.00
Sampling Vehicle	5	day	\$ 75.00	\$ 375.00
Mileage	375	mile	\$ 0.68	\$ 255.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (20 wells, 7 QC samples, & 2 leachate samples)	29	each	\$ 345.00	\$ 10,005.00
Assessment Appendix II Constituents (3 wells)	3	each	\$ 1,295.00	\$ 3,885.00
Waste Water Pre-Treatment Constituents (2 leachate samples)	4	each	\$ 844.00	\$ 3,376.00
			Subtotal:	\$ 35,061.00
<i>December 2023 Quarterly Verification Re-sampling & Assessment Monitoring Event:</i>				
Statistical Evaluation and Reporting (Verification/Assessment Monitoring):	8	hour	\$ 205.00	\$ 1,640.00
Groundwater Chemistry Review, Data Base Update, Analytical Data Evaluation Checklist,				
Groundwater Contour Map, and Report Preparation:				
Hydrogeologist	12	hour	\$ 205.00	\$ 2,460.00
Environmental Technician	34	hour	\$ 120.00	\$ 4,080.00
Subsistence	2	day	\$ 185.00	\$ 370.00
Sampling Vehicle	3	day	\$ 75.00	\$ 225.00
Mileage	375	mile	\$ 0.68	\$ 255.00
Analytical Services:				
Updated Table 5-1 GWSAP Constituents (3 wells & 1 QC sample)	4	each	\$ 345.00	\$ 1,380.00
Verification/Assessment Appendix II Constituents (3 wells & 2 QC samples)	5	each	\$ 1,295.00	\$ 6,475.00
			Subtotal:	\$ 16,885.00
<i>2023 Annual Detection Monitoring Report:</i>				
Hydrogeologist	20	hour	\$ 205.00	\$ 4,100.00
			Subtotal:	\$ 4,100.00
<i>2023 Groundwater Statistical Analysis Software:</i>				
Sanitas for Groundwater Software Annual Maintenance Agreement (cost +15%)	1	LS	\$ 600.00	\$ 600.00
			Subtotal:	\$ 600.00
<i>2023 Update to Background Statistical Evaluation Report:</i>				
Hydrogeologist	25	hour	\$ 205.00	\$ 5,125.00
			Subtotal:	\$ 5,125.00
<i>2023 Contingency Funds:</i>				
			Subtotal:	\$ 2,500.00
			TOTAL:	\$ 116,202.00

Notes:

- Scope of work allows for two (2) assessment monitoring events with a total of three (3) wells each.
- Additional work will be performed upon authorization by the City of Denton utilizing the unit rates as shown above.

Certificate Of Completion

Envelope Id: 9B0B3582615C4039941136C07E0C8766

Status: Sent

Subject: Please DocuSign: City Council Contract 7109-005 Groundwater Services, Amendment 1, NTE Increase

Source Envelope:

Document Pages: 7

Signatures: 3

Envelope Originator:

Certificate Pages: 6

Initials: 1

Christa Christian

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

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

Christa.Christian@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Christa Christian

Location: DocuSign

1/3/2023 12:19:15 PM

Christa.Christian@cityofdenton.com

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

Christa Christian

Completed

Sent: 1/3/2023 12:34:21 PM

christa.christian@cityofdenton.com

Viewed: 1/3/2023 12:34:49 PM

Senior Buyer

Signed: 1/3/2023 12:34:56 PM

City of Denton

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Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Lori Hewell



Sent: 1/3/2023 12:35:00 PM

lori.hewell@cityofdenton.com

Viewed: 1/3/2023 1:42:11 PM

Purchasing Manager

Signed: 1/3/2023 1:42:34 PM

City of Denton

Signature Adoption: Pre-selected Style

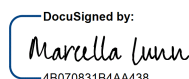
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(None)

Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn



Sent: 1/3/2023 1:42:39 PM

marcella.lunn@cityofdenton.com

Resent: 1/6/2023 8:18:24 AM

Deputy City Attorney

Viewed: 1/6/2023 2:02:29 PM

City of Denton

Signed: 1/6/2023 2:05:14 PM

Security Level: Email, Account Authentication
(None)

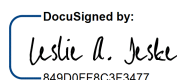
Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Leslie A. Jeske



Sent: 1/6/2023 2:05:17 PM

ljeske@solutientgeosciences.com

Viewed: 1/6/2023 2:06:02 PM

President

Signed: 1/6/2023 2:06:40 PM

Security Level: Email, Account Authentication
(None)

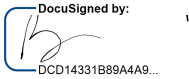
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Electronic Record and Signature Disclosure:

Accepted: 1/6/2023 2:06:02 PM

ID: 1e66460f-a98b-4564-80d9-11d76acd4972

Signer Events	Signature	Timestamp
Brian Boerner brian.boerner@cityofdenton.com Director of Solid Waste Security Level: Email, Account Authentication (None)	 Signature Adoption: Drawn on Device Using IP Address: 107.120.35.50 Signed using mobile	Sent: 1/6/2023 2:06:44 PM Viewed: 1/6/2023 2:39:14 PM Signed: 1/6/2023 2:39:57 PM

Electronic Record and Signature Disclosure:
 Accepted: 1/6/2023 2:39:14 PM
 ID: a8868a94-303d-4f76-b4a0-41b47459cfbb

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

Sent: 1/6/2023 2:40:04 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
 Accepted: 1/5/2023 11:19:59 AM
 ID: 05add39e-427a-4609-81a0-0f1401d4abf9

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

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

Sent: 1/3/2023 12:35:01 PM

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Electronic Record and Signature Disclosure:
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Carbon Copy Events	Status	Timestamp
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Ami Reeder ami.reeder@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/14/2022 10:08:32 AM ID: b3ae9d8c-1b51-4315-b6cd-71be6247b666	<div>COPIED</div>	Sent: 1/6/2023 2:40:01 PM Viewed: 1/9/2023 3:00:05 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/3/2023 12:34:21 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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

Getting paper copies

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

Withdrawing your consent

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

Consequences of changing your mind

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

All notices and disclosures will be sent to you electronically

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

How to contact City of Denton:

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

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

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

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

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

To request paper copies from City of Denton

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

To withdraw your consent with City of Denton

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

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, 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:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.



City of Denton

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

Legislation Text

File #: PUB23-016, **Version:** 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, ratifying the expenditure of funds by the City Manager for the emergency purchase of rebuilt electric utility transformers for Denton Municipal Electric; and providing an effective date (File 8182 - awarded to Midwest Electric Transformer Services, Inc., in the not-to-exceed amount of \$535,018.00).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
INTERIM ACM: Cassey Ogden
DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, ratifying the expenditure of funds by the City Manager for the emergency purchase of rebuilt electric utility transformers for Denton Municipal Electric; and providing an effective date (File 8182 – awarded to Midwest Electric Transformer Services, Inc., in the not-to-exceed amount of \$535,018.00).

INFORMATION/BACKGROUND

This Declaration is for rebuilt electric utility transformers needed to provide restoration of and service to customers. The current supply chain issues being experienced across the electric utility industry and Denton Municipal Electric (DME) necessitated the purchase.

Section 252.022 of the Texas Local Government Code provides exemptions associated with purchasing requirements which include (1) a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents..., and (2) a procurement necessary to preserve or protect the public health or safety of the municipality's residents.

Denton's current inventory of transformers is at levels reserved for normal, daily electric service operational responsibilities and emergency response. For new construction, DME prioritizes transformers on a project first come, first ready basis for customers and developers that have inspections and permits complete. DME has forty-five projects designed and released to construction or ready to be released for construction. DME has another 128 projects currently in the design phase. DME has notified customers and developers that the utility may not be able to provide immediate service due to the low inventory of transformers and the current supply chain issues.

Supply chain issues for distribution transformers continue to worsen. Major shortages are being experienced nationwide of critical electric utility equipment such as electric distribution transformers, underground cables, substation equipment, and other equipment necessary to maintain and provide electric service in Denton. The need for this Declaration of an Emergency stems from lead times on transformers approaching 76 weeks in some instances. Vendors cannot provide reliable estimates of lead times for equipment. DME has seen an increase of 250% or more in the average cost of transformers supplied by its contracted vendor. Table 1 provides a list of orders for transformers needed under this Declaration of an Emergency to help mitigate some of the supply chain issues and help support DME's stock levels of transformers. Failure to declare an emergency could cause inventory levels to drop further below minimum acceptable levels.

Table 1

Transformer Size	Transformer Cost	Quantity	Total Cost
25kVA 240/120 PM	\$7,035.00	5	\$35,175.00
50kVA 240/120 PM	\$8,950.00	35	\$313,250.00
75kVA 240/120 PM	\$10,125.00	8	\$81,000.00
167kVA 240/120 PM	\$18,985.00	3	\$56,955.00
Shipping	10 percent of total	1	\$48,638
Purchase Order Total Cost			\$535,018

Approval of a Declaration of an Emergency, with a one-time spend authority of \$535,018, allows DME to better position its transformer inventory for service and minimize the growing backlog of transformer orders.

RECOMMENDATION

Approve the emergency purchase of rebuilt electric utility transformers for Denton Municipal Electric, in a not-to-exceed amount of \$535,018.

PRINCIPAL PLACE OF BUSINESS

Midwest Electric Transformer Services, Inc.
Newton, KS

FISCAL INFORMATION

The transformers were funded out of the DME's Capital Budget account 605227500.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Declaration of Emergency
Exhibit 3: Ordinance

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

For information concerning this acquisition, contact: Randy Key, 940-349-7665.

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



Declaration of an Emergency

File #: _____

Requisition #: 158530Date: 12/15/2022Vendor: Midwest Electric TransformerCommodity/Service: CommodityEstimated expenditure for the above commodity or service: \$ 535,018.00

Initial all entries below that apply to the proposed purchase, under the Purchasing Procedures as passed by City Council. (More than one entry may apply.)

1. ☒ Emergency situations, including procurements necessary to protect the public health or safety or in response to a public calamity;
2. ☐ A procurement necessary because of unforeseen damage to public equipment, machinery, or other property;

Brief Description/Justification for exception:

This purchase is for distribution transformers to help meet the growing need DME has for transformers. With the supply chain issues continuing to get worse we have now approached lead times for receiving transformers of 76 plus weeks. This is causing DME to drop below our minimum transformer levels to meet our outage and maintenance needs along with any needs of new developments, and DME is in danger of running out of transformers. This purchase will help secure transformers to help meet those current needs.

Respectfully Submitted by,

DocuSigned by:
Antonio Puente 12/27/2022
 Dept. Director Date

Reviewed by:

DocuSigned by:
Lori Howell 12/27/2022
 Purchasing Manager Date

Reviewed By:

DocuSigned by:
Marcella Lunn 12/29/2022
 City Attorney Date

Approved by:

DocuSigned by:
Sara Hensley 12/29/2022
 City Manager Date

This form must be attached to a purchase requisition if the expenditure is under \$50,000.

This form must be attached to a completed Agenda Information Sheet if the expenditure exceeds \$50,000.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, RATIFYING THE EXPENDITURE OF FUNDS BY THE CITY MANAGER FOR THE EMERGENCY PURCHASE OF REBUILT ELECTRIC UTILITY TRANSFORMERS FOR DENTON MUNICIPAL ELECTRIC; AND PROVIDING AN EFFECTIVE DATE (FILE 8182 – AWARDED TO MIDWEST ELECTRIC TRANSFORMER SERVICES, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$535,018.00).

WHEREAS, state law and city policy requires that certain contracts requiring an expenditure or payment by the city in an amount exceeding \$50,000 be by competitive bids, except in the case of public calamity where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens of the city, or in case of unforeseen damage to public property, machinery, or equipment, or where the procurement is necessary to preserve or protect the public health or safety of the city's residents under Section 252 of the Local Government Code; and

WHEREAS, the City Manager has recommended to the City Council that it is necessary to ratify the purchase goods or services due to the following emergency conditions outlined in the memorandum referenced herein; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Council hereby determines that there is a public calamity that makes it necessary to act at once to appropriate money to relieve the necessity of the citizens of the city, or to provide for unforeseen damage to public property, machinery, or equipment, or to preserve or protect the public health or safety of the city's residents, and by reason thereof, the following emergency purchases of materials, equipment, supplies, or services, as described in the "Declaration of Emergency Memorandum" referenced herein and on file in the office of the Purchasing Agent, are hereby approved:

<u>FILE</u> <u>NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8182	Midwest Electric Transformer Services, Inc.	\$535,018.00

SECTION 2. Because of such emergency, the City Manager, or a designated employee, is hereby authorized to purchase the materials, equipment, supplies, or services as described in the Memorandum on file in the office of the Purchasing Agent, and to make payment therefore in the amounts therein stated. Such emergency purchases, being in accordance with the provisions of state law, exempt such purchases by the city from the requirements of competitive bids.

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

SECTION 4. 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:	_____	_____	_____	_____
VACANT, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2023.


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@cityofdent
on.com, c=US
Date: 2023.01.06 15:31:36 -06'00'



City of Denton

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

Legislation Text

File #: PUB23-020, Version: 1

AGENDA CAPTION

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Romco Equipment Co., LLC, an authorized dealer for Volvo Construction Equipment North America, LLC, through the Sourcewell Cooperative Purchasing Network Contract Number 032119-VCE, for the purchase of one (1) Volvo L180H Wheel Loader for the Beneficial Reuse Department; authorizing the expenditure of funds therefor; and providing an effective date (File 8185 - awarded to Romco Equipment Co., LLC, in the not-to-exceed amount of \$491,511.00).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
INTERIM ACM: Cassey Ogden
DATE: January 23, 2023

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Romco Equipment Co., LLC, an authorized dealer for Volvo Construction Equipment North America, LLC, through the Sourcewell Cooperative Purchasing Network Contract Number 032119-VCE, for the purchase of one (1) Volvo L180H Wheel Loader for the Beneficial Reuse Department; authorizing the expenditure of funds therefor; and providing an effective date (File 8185 – awarded to Romco Equipment Co., LLC, in the not-to-exceed amount of \$491,511.00).

INFORMATION/BACKGROUND

This request is to award a contract for purchasing one (1) Volvo L180H Wheel Loader for the Beneficial Reuse Department. This unit was a planned addition approved in the FY22/23 budget.

The Volvo L180H Wheel Loader is used to transport brush, construct wind rows, and loading customers. This loader is an addition to the fleet, thus a one-time buy.

The Volvo model L180H is a proven piece of heavy equipment powered by a clean diesel engine that meets all current tier 4f emission standards. The engine in the L180H will run on B20 biodiesel, which is then supplied fuel for the Beneficial Reuse department. The City currently has six (6) other Volvo wheel loaders of various sizes.

Pricing obtained through Sourcewell Cooperative Purchasing Network has been competitively bid and meets the statutory requirements of Texas Local Government Code 271.102.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 28, 2020, Council approved the interlocal agreement with Sourcewell (Ordinance 20-197).

RECOMMENDATION

Award a contract with Romco Equipment Co., LLC, which is an authorized dealer for Volvo Construction Equipment North America, LLC, for the purchase of one (1) Volvo L180H Wheel Loader for the Beneficial Reuse Department, in a not-to-exceed amount of \$491,511.

PRINCIPAL PLACE OF BUSINESS

Romco Equipment Co., LLC
Fort Worth, TX

ESTIMATED SCHEDULE OF PROJECT

Delivery of the items will occur within 240 days after receipt of order.

FISCAL INFORMATION

These items will be funded from 22/23 BS Addition 01 Loader account 645248645.1365.30100. Requisition #158846 has been entered into the Purchasing software system in the amount of \$491,511. The budgeted amount for this item is \$491,511.

Description	Amount
L180H Volvo Wheel Loader	\$487,011
Freight	\$3,500
Pre Delivery Inspection	\$1,000
Total	\$491,511

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Quote
Exhibit 3: LLC Members
Exhibit 4: Ordinance

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

For information concerning this acquisition, contact: Dustin Rolfe, 940-349-8438.

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

Version 19

Description	Part #	List Price
Volvo L180H Wheel Loader	L180H	557,746.00
26.5R25* L3 VJT Bridgestone (4)	WL20048	36,013.00
4 - Rims (3pc) for 26.5-25 Tires	WL21016	9,248.00
Full coverage fenders, front/rear for standard tires	WL22010	2,895.00
Engine D13 Tier 4f US	WL32013	0.00
Fuel fill strainer	WL30007	0.00
Delayed Engine Shutdown	WL30024	201.00
Quick engine oil change	WL30025	0.00
Axle cooling including reversible fan	WL37002	8,813.00
Rimpull	WL39501	0.00
Premium Comfort ISRI	WL41017	4,806.00
Air conditioning w/ corrosion prot. condenser & ACC (auto climate control)	WL42002	9,123.00
Steering knob	WL45001	165.00
Sliding window in door	WL45003	0.00
ACC Fahrenheit decal only	WL45004	0.00
Universal key	WL45005	0.00
Secondary steering, electric	WL45019	0.00
Lunch box holder	WL45023	136.00
Anchorage manual	WL45027	0.00
CoPilot with rear view camera + OBW Hardware (must select WL88205)	WL45052	0.00
Operator Coaching Basic	WL88201	0.00
Tire Pressure Monitoring System, cannot be combined with WL97001	WL88203	2,950.00
LOTO, Lock out tag out	WL53009	0.00
Back up alarm	WL54001	0.00
Max Boom Height	WL65013	0.00
Wheel nut wrench kit	WL71003	174.00
Decals, English/Spanish	WL83004	0.00
Cover plates, rear frame	WL86013	0.00
Frame, life time warranty	WL86041	621.00
Handrail on counterweight	WL86044	0.00
CareTrack Connectivity 4 yr Subscription	WL88010	0.00
CareTrack, GSM/Satellite	WL88018	0.00
De-activate SAT	WL88020	0.00
Max. fan speed, hot climate	WL30002	176.00
Air precleaner, Turbo II	WL31001	2,365.00
Radio BlueTooth/USB/AUX no CD	WL43004	1,072.00
RH Radio mounting kit including 20 amp converter, speakers & 12v outlet	WL44001	1,128.00
Comfort Drive Contr, CDC, el-hydr (Joystick Steering)	WL45024	10,656.00
Rearview mirrors, electric/heat long arm RH	WL45203	732.00
Halogen Power Package	WL50029	830.00
Separate attachment locking, std. boom	WL64001	3,419.00
Oil sampling ports	WL71002	318.00

Boom Suspension System (" Ride Control" . Includes single acting lift system.)	WL80001	11,671.00
Counterweight, rehandling (can't be ordered from Arvika w/ solid tires or wooden protect rims)	WL82004	6,713.00
Tow Hitch	WL82005	490.00
Bracket for Fire extinguisher	WL86034	264.00
146" 15.7 yd hook-on light material bucket (bolt-on edge included)	WLA91678	42,243.00
146" 15.7 yd hook-on light material bucket (bolt-on edge included)	WLA91678	42,243.00
146" 15.7 yd hook-on light material bucket (bolt-on edge included)	WLA91678	42,243.00
Attachment bracket (Must select Hook-on attachments)	WLA85347	15,261.00
Auto lube for standard boom	WL70003	13,712.00
Auto lube for attachment bracket, std or long boom	WL70009	1,346.00
Single lever hydraulic control, 2 function	WL47001	1,303.00
Warning Beacon, LED	WL51003	917.00

Total List Price	\$831,076
Sourcewell % off List	41.4%
Sourcewell Machine Price	\$487,011

See Front Page of Quote for Total Purchase Price



Texas Secretary of State

John B. Scott

[UCC](#) [Business Organizations](#) [Trademarks](#) [Notary](#) [Account](#) [Help/Fees](#) [Briefcase](#) [Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENT

Filing Number: 708098522
Original Date of Filing: December 27, 2000
Formation Date: N/A
Tax ID: 32003049965
Duration: Perpetual
Entity Type: Domestic Limited Liability Company (LLC)
Entity Status: In existence
FEIN:
Name: ROMCO Equipment Co., LLC
Address: 1519 W BELT LINE ROAD
CARROLLTON, TX 75006 USA

REGISTERED AGENT		FILING HISTORY	NAMES	MANAGEMENT
Last Update		Name		Title
May 14, 2021		Robert Mullins		Governing Person

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ROMCO EQUIPMENT CO., LLC, AN AUTHORIZED DEALER FOR VOLVO CONSTRUCTION EQUIPMENT NORTH AMERICA, LLC, THROUGH THE SOURCEWELL COOPERATIVE PURCHASING NETWORK CONTRACT NUMBER 032119-VCE, FOR THE PURCHASE OF ONE (1) VOLVO L180H WHEEL LOADER FOR THE BENEFICIAL REUSE DEPARTMENT; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8185 – AWARDED TO ROMCO EQUIPMENT CO., LLC, IN THE NOT-TO-EXCEED AMOUNT OF \$491,511.00).

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

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

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

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

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

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

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8185	Romco Equipment Co., LLC	\$491,511.00

SECTION 2. By the acceptance and approval of the items set forth in the referenced file number, the City accepts the offer of the persons submitting the bids to Sourcewell for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, conditions, specifications, standards, quantities, and for the specified sums contained in the bid documents and related documents filed with Sourcewell and the purchase orders issued by the City.

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

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

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

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

The motion to approve this ordinance was made by _____ 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:	_____	_____	_____	_____
VACANT, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____


PASSED AND APPROVED this the _____ day of _____, 2023.

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: 2023.01.13 15:18:25 -06'00'



City of Denton

City Hall
215 E. McKinney St.
Denton, Texas 76201
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Legislation Text

File #: PUB23-021, **Version:** 1

AGENDA CAPTION

Consider approval of the January 9, 2023 minutes.

CITY OF DENTON PUBLIC UTILITIES BOARD MINUTES
January 9, 2023

After determining that a quorum was present of the Public Utilities Board of the City of Denton, convened in a Regular Meeting on Monday, January 9, 2023, at 9:00 a.m. in the City Council Chamber at City Hall, 215 E. McKinney Street, Denton, Texas.

PRESENT: Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Lee Riback and Ben Jumper

Also present: General Manager Antonio Puente and Deputy City Attorney Marcella Lunn

Absent: Larry Beck

REGULAR MEETING

1. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

There were no public comments.

2. CONSENT AGENDA

The Consent Agenda consisted of Items 2.A-D.

Board Member Russell moved to recommend adoption of agenda items 2B and D. Motion seconded by Board Member Taylor; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

A. PUB22-219 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to a contract between the City of Denton and Interfaith Ministries of Denton, Inc., amending the contract approved by City Council on April 21, 2020, in the not-to-exceed amount of \$625,000.00; said first amendment to continue to provide a utility assistance program for the Customer Service Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 7244 - providing for an additional first amendment expenditure amount not-to-exceed \$156,250.00, with the total contract amount not-to-exceed \$781,250.00).

Board Member Russell pulled this item for questions that Christa Foster answered.

Board Member Russell moved to recommend adoption of agenda item 2A. Motion seconded by Board Member Jumper; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

B. PUB22-220 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Green Equipment Company, through the Buy Board Cooperative Purchasing Network Contract # 676-22, for Sewer Inspection Equipment and Repair for the Wastewater Collection Department; providing for the expenditure of funds therefor; and providing an effective date (File 8148 - awarded to Green Equipment Company, in the not-to-exceed amount of \$787,500.00).

C. PUB23-006 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to authorize the spend for an insurance binder to Archer Contingent Energy Risk, LLC, for forced outage insurance of the Denton Energy Center for the Winter of 2023; providing for the expenditure of funds therefor; and providing an effective date (RFP 8163 - authorizing the spend for Power Plant Forced Outage Insurance Coverage for the winter of 2023 and awarding such insurance binder to Archer Contingent Energy Risk, LLC, in the not-to-exceed amount of \$650,000.00).

Board Member Riback pulled this item for questions that Terry Naulty answered

Board Member Riback moved to recommend adoption of agenda item 2C. Motion seconded by Board Member Cheek; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

D. PUB23-005 Consider recommending adoption of an ordinance of the City of Denton, Texas, amending the expenditure of funds to authorize an increase of \$131,069.00 for the payment of wholesale transmission charges to the lower Colorado river authority; declaring a public purpose; and providing an effective date.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

A. PUB23-001 Receive nominations and hold an election for Chair, Vice Chair and Secretary.

Board Member Cheek moved to recommend the officers stay the same; Chair - Susan Parker, Vice Chair - Billy Cheek and Secretary - Barbara Russell. Motion seconded by Board Member Russell.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

B. PUB23-002 Receive a report, hold a discussion and give staff direction regarding the 2023 Schedule.

Board Member Taylor moved to recommend approval for agenda item 3B. Motion seconded by Board Member Jumper; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

C. PUB23-003 Consider approval of the December 12, 2022 minutes.

Board Member Check moved to recommend approval of agenda item 3C. Motion seconded by Board Member Riback; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

D. PUB 22-222 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with McCarthy Building Companies, Inc., for the construction of the Neighborhood 7A Project with geographical limits as follows: Bernard Street from Acme Street to Parvin Street, Leslie Street from Willowood Street to Dudley, Oakwood Drive from McCormick Street to 1100 Oakwood Drive, Underwood Street from Kendolph Drive to Avenue D, Wisteria, Azalea, and Camellia Streets from Laurel Street to Parvin Street, and all public alleyways between Laurel Street and Parvin Street; providing for the expenditure of funds therefor; and providing an effective date (CSP 7976 - awarded to McCarthy Building Companies, Inc., in the not-to-exceed amount of \$7,620,553.16).

Scott Fettig gave the presentation for this agenda item. Board Members ask questions that staff answered.

Board Member Russell moved to recommend approval of agenda item 3D. Motion seconded by Board Member Riback; motion carried.

YES (5): Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Lee Riback and Larry Beck

NO (0):

Billy Cheek recused himself for this item.

E. PUB22-223 Consider recommending adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Wilson Contractor Services, LLC, for the construction of the Hickory Creek Interceptor 3 Project; providing for the expenditure of funds therefor; and providing an effective date (CSP 8091 - awarded to Wilson Contractor Services, LLC, in the not-to-exceed amount of \$5,793,183.01).

Tracy Beck gave the presentation for this agenda item. Board Members asked questions that staff answered.

Board Member Jumper moved to recommend approval of agenda item 3E. Motion seconded by Board Member Riback; motion carried.

YES (6): Chair Susan Parker, Vice Chair Billy Cheek, Barbara Russell, Devin Taylor, Ben Jumper and Lee Riback

NO (0):

F. PUB23-007 - Management Reports

1. Future Agenda Items
2. New Business Action Items

4. CONCLUDING ITEMS

No items were added.

CLOSED SESSION

A. PUB23-008 Deliberations Regarding Certain Public Power Utilities: Competitive Matters – Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City’s attorneys on the legal status, expenses, strategy, and options for resolution of litigation issues associated with the “Application of Denton Municipal Electric to Change Rates for Wholesale Transmission Service” pending before the Public Utility Commission of Texas under Docket No. 52715; where public discussion of these legal matters would conflict with the duty of the City’s attorneys to the City of Denton and Denton Municipal Electric (DME) under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City’s legal position.

With no further business, the meeting was adjourned at 9:55 AM.

SUSAN PARKER
CHAIR
CITY OF DENTON, TEXAS

KIM MANKIN
UTILITIES ADMIN MANAGER
CITY OF DENTON, TEXAS

Minutes approved on: January 23, 2023.



City of Denton

City Hall
215 E. McKinney St.
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Legislation Text

File #: PUB23-022, **Version:** 1

AGENDA CAPTION

Management Reports

1. Electric Denton Energy Center September 2022 Dashboard
2. Future Agenda Items
3. New Business Action Items

**INFORMAL STAFF REPORT
TO MAYOR AND CITY COUNCIL**

SUBJECT:

FY 2021-22 Denton Energy Center (DEC) YTD September 2022 Dashboard

BACKGROUND:

Attached is the September FY 2021-22 Dashboard for the Denton Energy Center. The dashboard is intended to give a snapshot of relevant DEC metrics. The dashboards highlight the following:

- The Emission Charts (based on calendar year) display the September engine runtime hours, starts, stops, monthly and annual emissions totals and limits.
- A DEC financial summary showing September FY 2021-22 Actuals, FY 2021-22 Budget, Actuals as of September 2022 and the FY 2021-22 end of year projections.
 - As a result of Winter Storm Uri and the hot summer months of 2022, the FY 2021-22 year-end projections have been updated to show a \$3.4 million decrease in DEC fuel cost.
- The Plant Monthly Run Hour Comparison Graph illustrates the monthly plant run times.
- The Key Trends section explains variances in revenues and expenses.
 - Due to running more hours through September, the fuel cost was \$3.4 million lower.
 - The net income for the DEC through September equals \$8.94 million, which is a direct result of higher run times than budgeted.
 - The DEC Gross Margin through September was \$33.41 million which is \$25.10 million higher than budgeted also mainly due to Winter Storm Uri. (The Gross Margin = DEC Revenue – Fuel cost – Variable Operating & Maintenance cost.) Gross Margin represents the component of revenue available to pay fixed cost including debt.

ATTACHMENT(S):

Denton Energy Center (DEC) Dashboard

STAFF CONTACTS:

Cassey Ogden
Interim-Assistant City Manager
(940) 349-7195
cassandra.ogden@cityofdenton.com

Nick Vincent
Interim-Finance Director
(940) 349-8063
nicholas.vincent@cityofdenton.com



City of Denton, Texas

FY 2021-22 Denton Energy Center

YTD September 2022 Dashboard

Emissions														
Description	September 2022					Description	Nitrogen Oxides (NOx)	Carbon Monoxide (CO)	Volatile Organic Compound (VOC)	Particulate Matter<10 microns (PM ₁₀)	Particulate Matter<2.5 microns (PM _{2.5})	Sulphur Dioxide (SO ₂)	Ammonia (NH ₃)	Carbon Dioxide Equivalents (CO ₂ e)
	Engine Runtime (hours)*	Hot Starts	Warm Starts	Cold Starts	Stops									
Engines (1-12)	2,808	282	211	28	521	DEC Monthly Emissions Total (tons)	1.67	1.58	1.77	1.66	1.66	0.03	0.44	19,451.00
						DEC Annual Permit Limit Operations (tons)**	29.78	93.52	48.16	69.72	69.72	1.45	60.90	
						Monthly Plant Emissions per DEC Permit Limit	5.61%	1.69%	3.68%	2.38%	2.38%	1.97%	0.72%	
						Annual to Date Plant Emissions per DEC Permit Limit	51.80%	17.10%	31.30%	20.90%	20.90%	17.00%	6.20%	

* Over the past 12 months, the DEC engines ran 30% of the time. During the month of September, the DEC engines ran 33% of the time.

**Operations Annual Limit accounts for Balance of Plant standard emissions

* Over the past 12 months, the DEC engines ran 30% of the time. During the month of September, the DEC engines ran 33% of the time.

**Operations Annual Limit accounts for Balance of Plant standard emissions

Generation & Gross Revenues			
Month	Revenue	MWh	\$/MWh
Oct-21	\$3,283,392	36,361	\$90.30
Nov-21	\$2,900,790	26,776	\$108.34
Dec-21	\$1,073,883	11,028	\$97.37
Jan-22	\$1,183,268	14,651	\$80.77
Feb-22	\$3,902,695	15,172	\$257.23
Mar-22	\$1,645,577	14,850	\$110.81
Apr-22	\$2,565,586	20,630	\$124.36
May-22	\$6,511,999	32,234	\$202.02
Jun-22	\$5,399,858	57,964	\$93.16
Jul-22	\$18,419,548	71,998	\$255.84
Aug-22	\$9,366,541	76,384	\$122.62
Sep-22	\$3,691,782	40,345	\$91.50
Total FY 2021-22	\$59,944,917	418,392	\$143.27



Key Trends

In 2021-22, the DEC produced 174,170 MWh more than the same time period of FY 2020-21. However, due to Winter Storm Uri in February 2021 and the hot summer months of 2022, FY 2021-22 revenues were approximately \$78.9 million less and fuel costs were \$3.4 million less last fiscal year.

The DEC Gross Margin as of September 30 was \$33.41 million which is \$25.10 million higher than budgeted (Gross Margin = DEC Revenue – Fuel Cost – Variable Operating & Maintenance Cost).

	FY 2020-21 ACTUALS	FY 2021-22 BUDGET	FY 2021-22 PRELIMINARY ACTUALS
DEC REVENUE	\$ 138.89	\$ 21.29	\$ 59.94
EXPENDITURE SUMMARY			
Energy Expense - Fuel	\$ 29.68	\$ 12.75	\$ 26.28
Personnel Services	1.82	1.80	1.97
Materials & Supplies	0.27	1.70	1.01
Maintenance & Repair	0.38	0.56	0.91
Insurance	1.22	1.81	2.93
Operations	0.66	0.33	0.35
Debt Service - Principal	7.85	8.26	8.26
Debt Service - Interest	9.43	9.04	9.04
Interfund Transfers	0.24	0.26	0.25
Transfer to Capital Projects	-	-	-
DEC EXPENDITURES	\$ 51.55	\$ 36.51	\$ 51.00
DEC NET INCOME	\$ 87.34	\$ (15.22)	\$ 8.94

Note: All dollar figures presented in millions.

Future Public Utilities Board Agenda Items

Note: This is a working draft of pending PUB items and is subject to change without notice.

Meeting Date	Item	Dept
January 23, 2023	FY 2022-23 Electric Budget and Rates (exact meeting to be determined) Green Sense Incentives Program Update	Finance DME
February 13, 2023		
February 27, 2023		
March 13, 2023		
March 27, 2023		
April 10, 2023		
April 24, 2023		
May 8, 2023		
May 22, 2023		
June 12, 2023		
June 26, 2023		

Codes: Work Session WS, Consent Agenda CA, Individual Consideration IC

PUBLIC UTILITIES BOARD - NEW BUSINESS ACTION ITEMS

	DATE REQUESTED	REQUESTOR	ITEM	DEPT	STATUS
1.	12/14/20	Soph	Provide data showing the total amount of electricity generated by the solar installations and how much is returned to the grid in the City of Denton.	DME	Included in the Green Sense Program Work Session on 1/23/23
2.	7/25/22	Jumper	Re-evaluate how the money is used for Solar Panel rebates	DME	Included in the Green Sense Program Work Session on 1/23/23
3.	12/12/22	Riback	Information on the ERCOT lawsuit	DME	Complete 1/9/23



City of Denton

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

Legislation Text

File #: PUB23-019, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give direction regarding the Electric FY 2022-23 Budget and Rates.



City of Denton

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215 E. McKinney Street
Denton, Texas
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AGENDA INFORMATION SHEET

DEPARTMENT: Finance

INTERIM ACM: Cassey Ogden

DATE: January 23, 2023

SUBJECT

Receive a report, hold a discussion, and give direction regarding the Electric FY 2022-23 Budget and Rates.

BACKGROUND

The purpose of this work session is to provide a mid-year budget update for the Electric Fund. This discussion will focus on recent financial updates that have impacted the fund, which includes Transmission Cost of Service (TCOS) and Data Center updates. In addition, staff plans to discuss the FY 2021-22 end-of-year actuals, recap the adopted FY 2022-23 budget assumptions, and review a preliminary end-of-year estimate for FY 2022-23.

Below is a summary of the major updates to the FY 2022-23 financial forecast. Detailed information regarding each item will be discussed in closed session.

- Revised Data Center Revenue
- Revised Transmission Cost of Service Revenue
- Revised Data Center expenses

Staff is proposing no mid-year rate increase; however, a detailed rate discussion will be forthcoming as part of the FY 2023-24 budget process.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Presentation

Respectfully submitted:
Nick Vincent
Interim Finance Director
(940) 349-8063

Prepared By:
Danielle Stanford
Budget Manager
(940) 349-7507



Electric Fund Budget Update

Presentation Overview

- FY 21-22 End of Year Summary
- FY 22-23 Financial Assumptions
- FY 22-23 Updated Financial Forecast
- Recommendations & Next steps
- Upcoming Discussions

FY 21-22 End of Year Summary

Retail Sales

- Actual retail sales exceeded budget by \$10 million

Non-Rate Revenue

- Sale of TMPA coal mine
- Project revenue Brazos

	FY 21-22 Adopted	FY 21-22 Actual	Delta
Revenues:			
Base Rate Revenue	\$90,871,619	\$100,949,952	\$10,078,333
ECA Rate Revenue	54,459,405	55,973,083	1,513,678
Non-Rate Revenue	100,397,896	151,380,353	50,982,457
	245,728,920	308,303,388	62,574,468
Expenses:			
Purchase Power	\$87,873,985	\$125,899,765	\$38,025,780
Transmission of Power	19,182,169	21,460,710	2,278,541
O&M	133,687,269	138,148,527	4,461,258
	240,743,423*	285,509,002	44,765,579
Net Income	\$4,985,497	\$22,794,386	\$17,808,889

*Excludes mid year budget amendment

Financial Assumptions - 2023

Adopted Assumptions

Volume Forecast – April 2022

- Forecast is based on retail sales MWH (Megawatt-hour)

Expenses

- ROI remains at 6%
- TMRS rate increase from 17.65% to 18.15%

Revised Assumptions

Volume Forecast – Data Center Updated January 2023

- Forecast is based on retail sales MWH (Megawatt-hour)

Revenue

- Updated Non-Rate Revenue (closed-session item)
- Revised Data Center Revenue

Expenses

- ROI remains at 6%
- TMRS rate increase from 17.65% to 18.15%
- Revised Data Center Expenses

Updated FY 22-23 Estimate

Electric Fund	Actual 2021	Adopted 2022	Preliminary Actuals 2022	Adopted 2023	Estimate 2023	Forecast 2024	Forecast 2025	Forecast 2026	Forecast 2027
Beginning Fund Balance	\$ 109,645,474	\$ 117,982,597	\$ 117,982,597	\$ 127,784,431	\$ 140,776,983	\$ 111,732,459	\$ 95,703,860	\$ 91,670,522	\$ 93,708,883
Resources									
Base Rate Revenues	\$ 92,191,740	\$ 90,871,619	\$ 100,949,952	\$ 95,753,542	\$ 95,753,542	\$ 97,550,528	\$ 98,988,876	\$ 100,630,494	\$ 102,307,354
ECA Revenues	50,926,536	54,459,405	55,973,083	52,488,565	52,488,565	61,911,451	71,742,284	76,712,141	76,264,795
Non-rate Revenues	200,743,460	100,397,896	151,380,353	251,669,654	163,048,691	136,449,132	129,397,253	127,951,207	126,009,579
Total Revenues	\$ 343,861,736	\$ 245,728,920	\$ 308,303,388	\$ 399,911,761	\$ 311,290,798	\$ 295,911,111	\$ 300,128,413	\$ 305,293,842	\$ 304,581,728
Use of Reserves	-	-	-	15,506,380	29,044,524	16,028,599	4,033,338	-	2,019,219
Total Resources	\$ 343,861,736	\$ 245,728,920	\$ 308,303,388	\$ 415,418,141	\$ 340,335,322	\$ 311,939,709	\$ 304,161,751	\$ 305,293,842	\$ 306,600,947
Expenditures									
Purchase Power	\$ 195,310,342	\$ 87,873,985	\$ 125,899,765	\$ 234,805,395	\$ 162,207,521	\$ 59,525,061	\$ 56,295,550	\$ 57,898,107	\$ 59,118,778
Transmission of Power	18,776,508	19,182,169	21,460,710	22,102,442	22,102,442	22,574,304	23,095,727	23,681,742	24,275,262
Personnel	18,147,292	20,102,832	20,377,974	24,893,470	24,893,470	25,391,339	25,899,166	26,417,150	26,828,561
O&M	9,414,352	15,483,810	12,940,493	19,186,910	19,186,910	19,541,030	19,909,109	22,727,733	23,425,595
Cost of Service Transfers	17,680,887	16,686,207	16,806,491	15,454,928	15,454,928	16,169,448	16,868,765	15,102,737	15,618,212
ROI & Franchise Fee	21,635,624	22,429,548	26,166,548	35,379,937	27,744,992	27,622,009	27,560,644	27,820,460	28,077,084
NON DEC Debt Service	37,274,555	41,689,931	43,565,146	45,136,723	45,136,723	47,616,284	47,373,913	43,871,632	45,491,507
DEC Debt	17,285,053	17,294,941	18,291,875	17,308,336	17,308,336	17,320,115	17,304,869	17,336,504	17,355,532
Revenue Funded Capital	-	-	-	1,150,000	6,300,000	-	-	-	-
Total Expenditures	\$ 335,524,613	\$ 240,743,423	\$ 285,509,002	\$ 415,418,141	\$ 340,335,322	\$ 311,939,709	\$ 304,161,751	\$ 303,255,481	\$ 306,600,947
Net Income	\$ 8,337,123	\$ 4,985,497	\$ 22,794,386	\$ -	\$ -	\$ -	\$ -	\$ 2,038,361	\$ -
Average Residential Bill Increase	0.0%	0.0%	0.0%	0.0%	0.0%	5.0%	5.0%	2.0%	0.0%
Energy Cost Adjustment (ECA) \$/kWh	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0395	\$ 0.0452	\$ 0.0476	\$ 0.0466
Working Capital	26,841,969	19,259,474	22,840,720	33,233,451	27,226,826	24,955,177	24,332,940	24,260,438	24,528,076
Operating Reserve	91,140,628	103,708,620	117,936,263	92,037,152	84,505,633	70,748,683	67,337,582	69,448,444	67,161,588
Ending Fund Balance	\$ 117,982,597	\$ 122,968,094	\$ 140,776,983	\$ 125,270,603	\$ 111,732,459	\$ 95,703,860	\$ 91,670,522	\$ 93,708,883	\$ 91,689,663
Target Reserves									
Wrking Cptl/ Op Reserve Target - 46%	\$154,341,322	\$102,528,995	\$127,028,464	\$125,966,906	\$128,335,906	\$116,804,608	\$114,667,850	\$114,503,978	\$116,294,753
Wrking Cptl/ Op Reserve Target - 69%	\$231,511,983	\$153,793,493	\$190,542,695	\$188,950,360	\$192,503,860	\$175,206,912	\$172,001,776	\$171,755,967	\$174,442,130

Recommendations & Next Steps

- No mid-year rate increase
- FY 22-23 Notice of Intent for Bond Issuance
- Continue to update the forecast in the coming months
 - Purchase Power Forecast
 - Retail Sales Forecast
 - Timing of potential Data Center completion
- Reevaluate future rate increases during the budget process

Upcoming Discussions

Date	Committee or Council	Action
May 22, 2023	PUB	Utility Budget Forecasts & CIP Budget
June 12, 2023	PUB	Utility Budget & Rates Work Session
June 26, 2023	PUB	Utility Budget, CIP Budget, & Rates Work Session Follow-up
June 27, 2023	City Council	CIP Budget Work Session
July 10, 2023	PUB	Utility Rates
July 18, 2023	City Council	Utility Budgets & Rates Work Session
July 24, 2023	PUB	Utility Budgets & Rates Approval
July 25, 2023	City Council	Utility Budgets & Rates Work Session Follow-up
August 5, 2023	City Council	Budget Workshop
August 15, 2023	City Council	Budget Work Session
September 26, 2023	City Council	Budget Adoption

Questions



Adopted Proforma

Electric Fund	Actual 2021	Adopted 2022	Estimate 2022	Adopted 2023	Forecast 2024	Forecast 2025	Forecast 2026	Forecast 2027
Beginning Fund Balance	\$ 111,161,588	\$ 119,498,711	\$ 119,498,711	\$ 127,784,431	\$ 112,278,051	\$ 102,276,015	\$ 104,217,003	\$ 112,223,076
Resources								
Base Rate Revenues	\$ 92,191,740	\$ 90,871,619	\$ 106,458,552	\$ 95,753,542	\$ 97,550,528	\$ 98,988,876	\$ 100,630,494	\$ 102,307,354
ECA Revenues	50,926,536	54,459,405	57,833,592	52,488,565	61,911,451	71,742,284	76,712,141	76,264,795
Non-rate Revenues	61,857,495	60,912,753	79,626,933	50,524,816	40,398,116	41,456,871	42,437,821	43,157,098
Data Center Revenue	-	18,192,120	11,732,127	148,594,809	140,243,039	133,033,306	131,770,906	130,514,248
DEC Revenue	138,885,965	21,293,023	61,202,863	52,550,029	35,682,223	30,675,079	28,791,494	26,671,528
Total Revenues	\$ 343,861,736	\$ 245,728,920	\$ 316,854,067	\$ 399,911,761	\$ 375,785,357	\$ 375,896,416	\$ 380,342,856	\$ 378,915,023
Use of Reserves	-	-	-	15,506,380	10,002,036	-	-	-
Total Resources	\$ 343,861,736	\$ 245,728,920	\$ 316,854,067	\$ 415,418,141	\$ 385,787,393	\$ 375,896,416	\$ 380,342,856	\$ 378,915,023
Expenditures								
Purchase Power	\$ 165,630,884	\$ 59,762,599	\$ 109,557,810	\$ 70,149,198	\$ 59,525,061	\$ 56,295,550	\$ 57,898,107	\$ 59,118,778
DEC Fuel	29,679,458	12,752,429	24,501,397	37,052,865	24,804,038	21,269,376	20,305,035	18,804,056
Purchase Power - Data Center	-	15,358,957	11,732,127	127,603,332	119,183,792	112,708,104	111,570,807	110,438,682
Transmission of Power	18,776,508	19,182,169	18,854,600	22,102,442	22,574,304	23,095,727	23,681,742	24,275,262
Personnel	18,147,292	20,102,832	20,531,528	24,893,470	25,391,339	25,899,166	26,417,150	26,828,561
O&M	9,414,352	15,483,810	15,354,758	19,186,910	19,541,030	19,909,109	22,727,733	23,425,595
Cost of Service Transfers	17,680,887	16,686,207	16,766,940	15,454,928	16,169,448	16,868,765	15,102,737	15,618,212
ROI & Franchise Fee	21,635,624	20,039,192	28,121,632	21,406,229	20,981,442	21,261,461	21,581,052	21,897,179
ROI & Franchise Fee - Data Center	-	2,390,356	1,290,534	13,973,708	12,680,540	11,969,388	11,844,285	11,719,752
NON DEC Debt Service	37,274,555	41,689,931	44,562,080	45,136,723	47,616,284	47,373,913	43,871,632	45,491,507
DEC Debt	17,285,053	17,294,941	17,294,941	17,308,336	17,320,115	17,304,869	17,336,504	17,355,532
Revenue Funded Capital	-	-	-	1,150,000	-	-	-	-
Total Expenditures	\$ 335,524,613	\$ 240,743,423	\$ 308,568,347	\$ 415,418,141	\$ 385,787,393	\$ 373,955,428	\$ 372,336,783	\$ 374,973,115
Net Income	\$ 8,337,123	\$ 4,985,497	\$ 8,285,720	\$ -	\$ -	\$ 1,940,988	\$ 8,006,073	\$ 3,941,908
Average Residential Bill Increase	0.0%	0.0%	0.0%	0.0%	5.0%	5.0%	2.0%	0.0%
Energy Cost Adjustment (ECA) \$/kWh	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0395	\$ 0.0452	\$ 0.0476	\$ 0.0466
Working Capital	26,841,969	19,259,474	24,685,468	33,233,451	30,862,991	29,916,434	29,786,943	29,997,849
Operating Reserve	92,656,742	105,224,734	103,098,964	79,044,600	71,413,024	74,300,569	82,436,133	86,167,135
Ending Fund Balance	\$ 119,498,711	\$ 124,484,208	\$ 127,784,431	\$ 112,278,051	\$ 102,276,015	\$ 104,217,003	\$ 112,223,076	\$ 116,164,984
Target Reserves								
Wrking Cptl/ Op Reserve Target - 46%	\$154,341,322	\$102,528,995	\$135,396,802	\$125,966,906	\$116,804,608	\$114,667,851	\$114,503,978	\$116,294,754
Wrking Cptl/ Op Reserve Target - 69%	\$231,511,983	\$153,793,493	\$203,095,203	\$188,950,360	\$175,206,912	\$172,001,776	\$171,755,967	\$174,442,130

Mid-Year Rate Increase

Electric Fund	Actual 2021	Adopted 2022	Preliminary Actuals 2022	Adopted 2023	Estimate 2023	Forecast 2024	Forecast 2025	Forecast 2026	Forecast 2027
Beginning Fund Balance	\$ 109,645,474	\$ 117,982,597	\$ 117,982,597	\$ 140,776,983	\$ 140,776,983	\$ 115,884,468	\$ 104,271,254	\$ 104,800,485	\$ 111,592,164
Resources									
Base Rate Revenues	\$ 92,191,740	\$ 90,871,619	\$ 100,949,952	\$ 95,753,542	\$ 95,753,542	\$ 97,550,528	\$ 98,988,876	\$ 100,630,494	\$ 102,307,354
ECA Revenues	50,926,536	54,459,405	55,973,083	52,488,565	56,640,574	66,296,491	76,183,298	81,221,542	76,264,795
Non-rate Revenues	61,857,495	60,912,753	83,708,096	50,524,816	46,534,780	40,428,461	41,578,426	42,681,738	43,476,230
Data Center Revenue	-	18,192,120	7,727,340	148,594,809	63,963,882	60,368,793	57,265,302	56,721,892	56,180,953
DEC Revenue	138,885,965	21,293,023	59,944,917	52,550,029	52,550,029	35,682,223	30,675,079	28,791,494	26,671,528
Total Revenues	\$ 343,861,736	\$ 245,728,920	\$ 308,303,388	\$ 399,911,761	\$ 315,442,807	\$ 300,326,496	\$ 304,690,982	\$ 310,047,160	\$ 304,900,860
Use of Reserves	-	-	-	15,506,380	24,892,515	11,613,214	-	-	1,700,087
Total Resources	\$ 343,861,736	\$ 245,728,920	\$ 308,303,388	\$ 415,418,141	\$ 340,335,322	\$ 311,939,709	\$ 304,690,982	\$ 310,047,160	\$ 306,600,947
Expenditures									
Purchase Power	\$ 165,630,884	\$ 59,762,599	\$ 92,758,475	\$ 70,149,198	\$ 70,149,198	\$ 59,525,061	\$ 56,295,550	\$ 57,898,107	\$ 59,118,778
DEC Fuel	29,679,458	12,752,429	26,276,468	37,052,865	37,052,865	24,804,038	21,269,376	20,305,035	18,804,056
Purchase Power - Data Center	-	15,358,957	6,864,822	127,603,332	55,005,458	51,376,081	48,584,632	48,094,382	47,606,361
Transmission of Power	18,776,508	19,182,169	21,460,710	22,102,442	22,102,442	22,574,304	23,095,727	23,681,742	24,275,262
Personnel	18,147,292	20,102,832	20,377,974	24,893,470	24,893,470	25,391,339	25,899,166	26,417,150	26,828,561
O&M	9,414,352	15,483,810	12,940,493	19,186,910	19,186,910	19,541,030	19,909,109	22,727,733	23,425,595
Cost of Service Transfers	17,680,887	16,686,207	16,806,491	15,454,928	15,454,928	16,169,448	16,868,765	15,102,737	15,618,212
ROI & Franchise Fee	21,635,624	20,039,192	25,371,467	21,406,229	21,406,229	20,981,442	21,261,461	21,581,052	21,897,179
ROI & Franchise Fee - Data Center	-	2,390,356	795,081	13,973,708	6,338,763	6,640,567	6,299,183	6,239,408	6,179,905
NON DEC Debt Service	37,274,555	41,689,931	43,565,146	45,136,723	45,136,723	47,616,284	47,373,913	43,871,632	45,491,507
DEC Debt	17,285,053	17,294,941	18,291,875	17,308,336	17,308,336	17,320,115	17,304,869	17,336,504	17,355,532
Revenue Funded Capital	-	-	-	1,150,000	6,300,000	-	-	-	-
Total Expenditures	\$ 335,524,613	\$ 240,743,423	\$ 285,509,002	\$ 415,418,141	\$ 340,335,322	\$ 311,939,709	\$ 304,161,751	\$ 303,255,481	\$ 306,600,947
Net Income	\$ 8,337,123	\$ 4,985,497	\$ 22,794,386	\$ -	\$ -	\$ -	\$ 529,231	\$ 6,791,679	\$ -
Average Residential Bill Increase	0.0%	0.0%	0.0%	0.0%	2.5%	5.0%	5.0%	2.0%	0.0%
Energy Cost Adjustment (ECA) \$/kWh	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0341	\$ 0.0368	\$ 0.0423	\$ 0.0480	\$ 0.0504	\$ 0.0466
Working Capital	26,841,969	19,259,474	22,840,720	33,233,451	27,226,826	24,955,177	24,332,940	24,260,438	24,528,076
Operating Reserve	91,140,628	103,708,620	117,936,263	92,037,152	88,657,642	79,316,077	80,467,545	87,331,725	85,364,001
Ending Fund Balance	\$ 117,982,597	\$ 122,968,094	\$ 140,776,983	\$ 125,270,603	\$ 115,884,468	\$ 104,271,254	\$ 104,800,485	\$ 111,592,164	\$ 109,892,076
Target Reserves									
Wrking Cptl/ Op Reserve Target - 46%	\$154,341,322	\$102,528,995	\$127,028,464	\$125,966,906	\$128,335,906	\$116,804,608	\$114,667,850	\$114,503,978	\$116,294,753
Wrking Cptl/ Op Reserve Target - 69%	\$231,511,983	\$153,793,493	\$190,542,695	\$188,950,360	\$192,503,860	\$175,206,912	\$172,001,776	\$171,755,967	\$174,442,130

Impact on Other Funds

Fund	Original Allocation	Updated Allocation
Streets Capital	\$2,000,000	\$907,241
Catalyst Fund	\$5,000,000	\$2,268,103
Sustainability Fund	\$4,000,000	\$1,814,483
One-Time Expenses	\$2,973,708	\$1,348,935
Total	\$13,973,708	\$6,338,763



City of Denton

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

Legislation Text

File #: PUB23-010, **Version:** 1

AGENDA CAPTION

Receive a presentation, hold a discussion, and give staff direction regarding proposed updates to the GreenSense Incentives Program and rates related to distributed generation from renewable sources interconnected within Denton Municipal Electric service territory.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Denton Municipal Electric

CM/DCM/ACM: Antonio Puente, JR., DME General Manager

DATE: January 23, 2023

SUBJECT

Receive a presentation, hold a discussion, and give staff direction regarding proposed updates to the GreenSense Incentives Program and rates related to distributed generation from renewable sources interconnected within Denton Municipal Electric service territory.

BACKGROUND

The City of Denton (City) has offered energy efficiency and solar rebates through the GreenSense and Solar Programs since 2003 and 2009 respectively. During this time, many DME customers took advantage of these incentives to improve the energy efficiency of their homes and businesses. Customers also took advantage of these programs to install Solar Photovoltaic (PV) systems on their houses and businesses. Since then, there have been a lot of changes to both the energy efficiency measures that are available and relevant to today's housing stock as well as substantial reductions to the cost of PV.

RECOMMENDATION

Staff requests that the Public Utility Board hear a presentation on the status of the GreenSense Energy Efficiency and Solar Rebate programs and hear various options for program improvements.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Presentation

Exhibit 3: Solar Program ISR

Respectfully submitted:
Bill Shepherd
DME Executive Manager of Business Services



GreenSense Program Status and Recommendation

Denton Municipal Electric (DME)

January 23rd, 2023



Program Cost Comparisons

Energy Efficiency Incentives

- \$2,154,348 Spent
- 5,758 rebates issued
- 41,492,641 kWh reduced
- Equivalent to 3,458 homes
- 22,585 Tonnes CO2
- 19 kWh reduced per dollar spent

Solar Rebates

- \$3,488,237 Spent
- 605 rebates issued
- 11,479,104 kWh “offset”
- Equivalent to 957 homes
- 6,248 Tonnes of CO2
- 3 kWh offset per dollar spent

GreenSense Summary of Financial Impacts

Summary of Financial Impacts Fiscal Year Ending 2022

- \$3,488,237 spent so far on Solar Rebates (\$500,000/Yr)
 - \$5,766 average rebate per system
- \$1,756,243 spent on Net Billing Credits Fiscal Year Ending 2022
 - \$1,038,000 next year and will continue to grow
- Every \$1.5 Million has a 1% upward pressure on Electric Rates

DME Bill Breakdown Current

Residential Non-Solar Customer

	1000 kWh Consumption
Facility Charge	\$8.67
Usage Charge	\$68.40
Energy Charge (ECA)	\$34.10
Renewable Credit (RCA)	N/A
Total Bill	\$111.17

Fixed Cost Contribution: \$62.55 or 56%

Residential Solar Customer

	1000 kWh Consumption	1000 kWh Return
Facility Charge	\$8.67	-
Usage Charge	\$68.40	\$68.40
Energy Charge (ECA)	\$34.10	-
Renewable Energy Credit (RCA)	-	\$38.10
Totals	\$111.17	\$106.50

Net Bill \$4.67

Shortage of Fixed Cost: **(\$57.88)**

Potential Options

Option 1 Status Quo

\$500,000 Solar
Rebates

\$500,000 Efficiency
Rebates

No Changes to Net
Billing Structure and
Rate

Option 2 Funds Reallocation

Sunset Solar Rebate
No Net Billing Changes

\$500,000 Creating
Impactful, Sustainable
Programs

\$1,000,000 Efficiency
Rebates

Option 3 Sunset Solar

Sunset Solar Rebate

Sunset Net Billing
Structure and Rate

\$500,000 Creating Impactful,
Sustainable Programs

\$1,000,000 Efficiency
Rebates

Option 4 Phased In

Sunset Solar Rebate

\$500,000 Creating Impactful,
Sustainable Programs

Excess Generation pd
at ECA

Phase in higher Facility
Charge '24-'28

RCA equal to ECA

\$1,000,000 Efficiency
Rebates

Staff Recommendation – Option 4

- Discontinue PV Rebate and redirect \$500,000 to other GreenSense Programs for a total of \$1,000,000
- Replace RCA with ECA
 - DME is 100% Renewable so ECA is already appropriate rate for Solar
- Phase in higher facility charge in 5 steps, FY24-FY28
 - FY24 - \$19.45
 - FY25 - \$30.23
 - FY26 - \$41.01
 - FY27 - \$51.79
 - FY28 – \$62.55

Direction from Board?

- Option 1 – Status Quo
- Option 2 – Discontinue Rebate redirect Dollars
- Option 3 – Discontinue Rebate and Restructure Net Billing
- **Option 4 – Phased In (Alternative Approach) Staff**

Recommendation

Questions?

Date: August 22, 2022

**INFORMAL STAFF REPORT
TO SUSTAINABILITY FRAMEWORK ADVISORY COMMITTEE**

SUBJECT

Overview of DME's Roof Top Solar Programs and Recommended Changes to Green Sense Incentives Program.

Executive Summary

Since 2010 DME has offered economic incentives to residential and commercial customers to develop roof top solar distributed generation facilities, herein referred to as Distributed Generation ("DG") as part of the city's overall sustainability objectives. Adoption of the Renewable Denton Plan in 2017 and the more comprehensive Denton Renewable Resource Plan (DRRP) in February 2018 and the subsequent achievement of the 100% renewable energy supply objective has drastically changed the economics and the environmental value of additional DG. This ISR is intended to provide the Denton City Council, the Public Utility Board, the Sustainability Framework Advisory Committee with the facts surrounding DME's DG programs, the impact on electric rates and recommendations for modifications to the DG programs for these committees and boards to consider to better align the program with DME's 100% renewable supply portfolio and to help explain the long-term decisions that residents and commercial customers have when considering investing in DG.

The fact that the city of Denton's power supply portfolio delivers 100% renewable energy to all customers more cost effectively than any individual DG installation could hope to achieve, should be celebrated by all those who were part of the development and ratification of the DRRP. This has allowed Denton to claim one of the lowest electric utility supply carbon foot prints of any community in the world. However, this uniqueness does not lend itself to benchmarking with other communities that are striving to lower their carbon footprint through DG incentive programs. Comparing the roof-top solar market penetration in Denton to Austin, for example, is not a good comparison.¹

The current structure of DME's Distributed Generation Rider (DGR), coupled with the rebate program offered to DG systems creates a cross subsidy that is counter to "Cost of Service" based rate principles. "Cost of Service" based rates can also be termed as cost/causation rates meaning that those customers that cause DME to undertake costs to serve should be responsible for those costs. For fiscal year 2021, the amount of the cross subsidy amounted to \$599,178 which translates to \$10.79/year that the average DME residential customer paid to cover the costs incurred by DME to serve the DG customers. Over the last 11 years, the total cost of the DG program to DME customers has been \$5.184 million.

Studies² have shown that high income households disproportionately invest in roof top solar DG systems because of the high upfront capital cost. While that disparity is shrinking, DME's current suite of DG

¹ Simply comparing the percentage of homes with rooftop solar or percent of load served by DG are not valid comparisons since the relative carbon footprint of the communities is so far apart.

² See <https://insidedclimatenews.org/news/15042021/inside-clean-energy-rooftop-solar-income-disparity/>

programs could be classified as regressive in that those who can least afford the costs associated with roof top solar installations are paying a higher percentage of their incomes to energy expenses, including this cross rate-class subsidy³. The costs and benefits stated in this report are estimates based upon actual installed DG capacity, actual rebates paid, actual DG generation and applicable rates during the term of the period studied. However, because of limitations in being able to access the AMI data from DG only customers, staff has used system wide data and not individual meter data in the preparation of this report. Staff is confident that the conclusions and recommendations in this report would not be materially different if actual DG meter data from all current DG customers was available.

Conclusions Drawn from This Analysis

1. The current rebate and DGR are not market-based and incentivize investment in DGR systems based upon rebate and surplus energy price signals that are not sustainable or equitable to non-DG DME customers.
2. The DGR that solar DG customers are credited by DME for surplus generation is the most expensive power that DME buys.
3. Solar DG customers are not adequately contributing to the fixed costs that DME incurs to serve their homes and businesses.
4. While there is a benefit to DME of the contribution of solar DG to annual coincident peak, actual demand reduction can't be accurately calculated and does not offset the loss of base rate revenues from solar DG customers.
5. There is a regressive and unintended cross rate class subsidy created by the DGR and DG rebate program that adversely impacts low-income customers⁴.

Staff Recommendations

- A. The solar rebate provided under the Green Sense program should be eliminated. The \$500,000 per year DME budgets for solar DG rebates should be re-directed to programs that have the potential to contribute to the policy objectives of Denton's sustainability plans.
- B. DME should recover appropriate fixed costs from each solar DG customer and crediting those customers the market value of their solar DG energy by eliminating the Distributed Generation Rate (DGR) and providing credits to solar DG customers no higher than the Energy Cost Adjustment (ECA) rate, which may vary.
- C. To the extent that a solar DG customer's credit exceeds the amount due to DME in any month, the credit should not offset other City of Denton billed utilities (water/wastewater/solid waste).

History and Components of DME's Distributed Generation Incentive Programs

³ See https://www.energy.gov/sites/prod/files/2019/01/f58/WIP-Energy-Burden_final.pdf

⁴ See <https://www.ase.org/blog/low-income-households-pay-lot-energy-efficiency-can-help-cut-costs>

DME began providing roof-top solar rebates to qualified customers in January 2010. While the specific

**Table 1 – Denton City Council
Authorized Solar Rebate
Amounts (through FY 2021)**

Fiscal Year	Authorized Rebate (\$)
2009	\$90,000
2010	\$130,000
2011	\$130,000
2012	\$180,000
2013	\$180,000
2014	\$180,000
2015	\$180,000
2016	\$180,000
2017	\$200,000
2018	\$300,000
2019	\$500,000
2020	\$500,000
2021	\$500,000
Total	\$3,250,000

rate per installed AC-Watt was not specified, City Council approved annual budgeted amounts for the rebate program. The budgeted rebate amounts are presented in Table 1.⁵

DME processes applications for solar rebates on a first come, first served basis beginning each fiscal year. Early applications for installation of solar DG units had to comply with DME’s 2009 “GreenSense” program and in 2017 DME developed a DG manual to provide all potential DG installers with the interconnection and application requirements. This manual has been amended from time to time. Once authorized by City Council, funds are claimed for each fiscal year with no additional rebates offered for the balance of the fiscal year. During the last few years, additional PV Systems beyond those who receive a rebate have been permitted and constructed. In FY 2020, DME received 185 applications for solar DG systems which totaled 1,399 kW of new capacity. During that year, 108 rebates were awarded associated with 814 kW of new capacity. All but 4 of the approved systems were actually installed and those are classified as “pending”. From the 2020 FY data, 73 systems for an installed capacity of 550 kW (39.3% of the

proposed systems) were installed with no rebate. Staff believes this trend will continue and supports our recommendations for changes to the solar DG rebate program as the economics no longer require the rebates to drive acceptable returns to the solar DG investors/owners.

Data from the National Renewable Energy Laboratory (NREL) supports what DME is seeing in the marketplace. The lower the cost of solar DG, the less important the solar rebates become, and the more customers are choosing to invest in solar DG systems. Since initiating the solar rebate program, the cost of roof top solar panel arrays has dropped 64% making the provision of solar rebates less important in DG investors life cycle cost analysis. NREL historical data are presented in Figure 1.

This inverse correlation of cost to installed capacity makes economic sense. As the cost of solar panels has dropped, the number of customers adopting roof top solar DG is increasing. While DME’s purchase price for surplus solar and the upfront rebates certainly play a meaningful variable in the business case that most solar DR investors build, the primary drivers are installed capital cost, tax credits and environmental motivation. The 64% drop in cost of solar arrays makes the provision of rebates less impactful than it did just five years ago. DME’s Business Development and Engineering staffs’ have seen continued applications for solar DR even after the budgeted rebate dollars have been fully committed to early applications⁶.

⁵ Amounts not fully paid out in a fiscal year were rolled over into the next fiscal year.

⁶ Fiscal year 20/21 funds were fully committed by _____. 73 new solar PV systems applications were filed after that date.

Figure 1 – Cost of Roof-Top Solar PV⁷

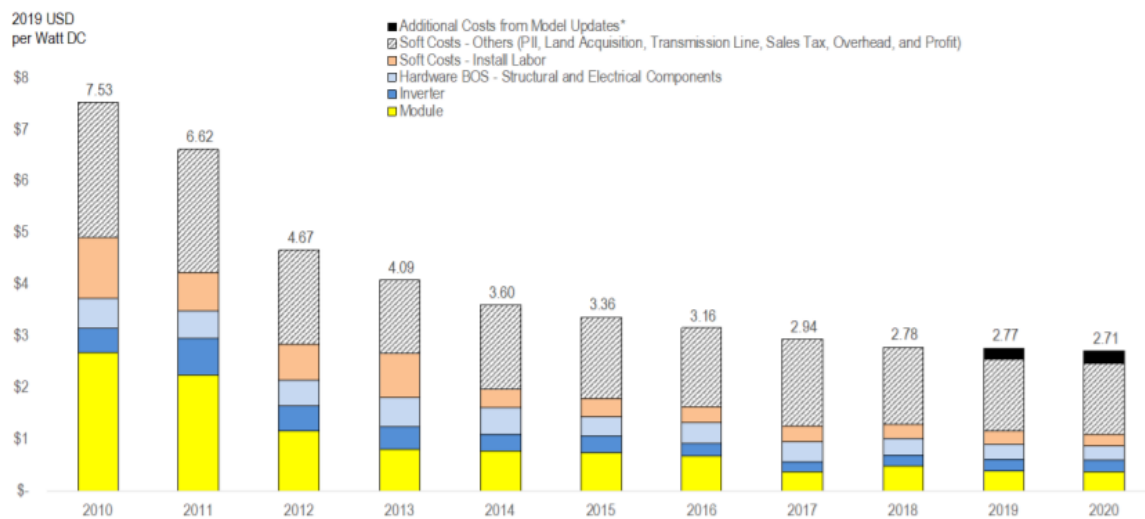
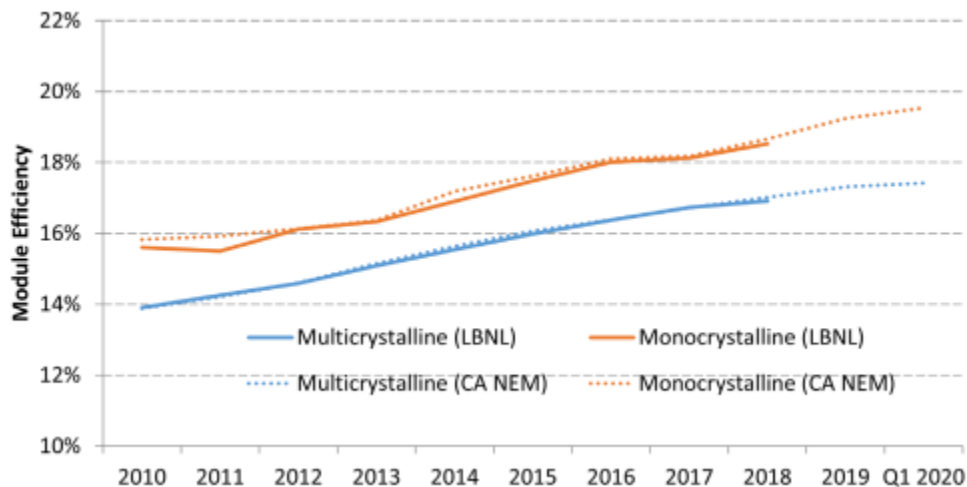


Figure 17. NREL residential PV system cost benchmark summary (inflation adjusted), 2010–2020

At the same time that costs have been coming down for these systems, the conversion efficiency of the solar panels has been increasing and NREL expects the efficiency to continue to increase. Figure 2 shows the historical efficiency gains of solar panels since the initiation of DME’s “GreenSense” program.

Figure 2 – Solar Module Efficiency Trends (NREL footnote 7)

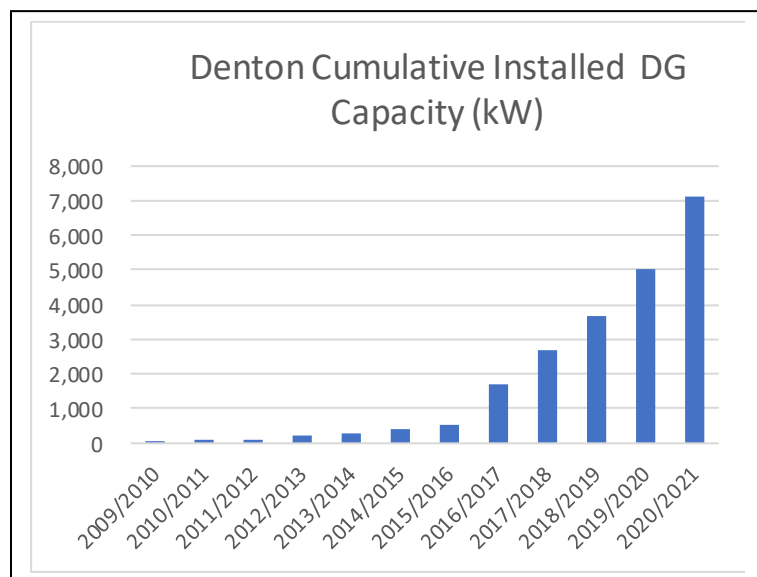


As a result of increased rebate amounts, lower installed cost, higher system efficiencies and heightened awareness of climate change, Denton has seen widespread adoption of solar DG. Figure 3 provides the

⁷ Feldman, David, Vignesh Ramasamy, Ran Fu, Ashwin Ramdas, Jal Desai, and Robert Margolis. 2021. U.S. Solar Photovoltaic System Cost Benchmark: Q1 2020. Golden, CO: National Renewable Energy Laboratory. NREL/TP-6A20-77324. <https://www.nrel.gov/docs/fy21osti/77324.pdf>.

installed solar DG capacity on the DME system. As of January 2021 over 7,000 kW of solar DG has been installed on the DME system consisting of some 600 installations. While 494 installations received Greensense rebates, 277 (36%) have been installed with no rebate provided. In FY 2021, 43 percent of the systems received no rebates.

Figure 3– Denton Installed Solar DG (effective 1/22)



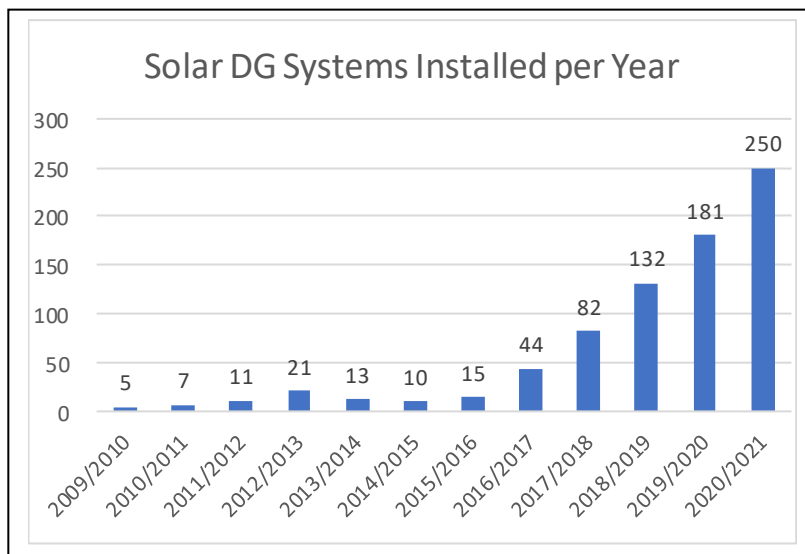
With over 7,000 kilowatts (kW) of installed solar DG capacity, to the extent that capacity was fully available at the peak summer electrical demand hour, approximately two (2) percent of the energy being consumed by Denton could have been produced by these solar DG systems⁸. However, not all solar DG system were likely to have been producing at maximum rated output during that peak demand hour due to mechanical or controls issues or due to cloud cover that would have reduced the output of individual systems. Also, it is critically important that readers of this report understand that beginning in 2021 DME reached

the DRRP goal of offsetting 100% of the city’s electrical demands with renewable energy. Consequently, while individual solar DG owners were self-providing renewable energy during daylight, all DME customers were offsetting their 24 hour demand with renewable energy to power their homes and businesses.

Figure 4 – Number of Solar DG Systems in Denton

Cost of Service Considerations for Solar Rate Design

To adequately recover the costs associated with the provision of electric service to all DME customers DME’s rates allocate the fixed and variable costs incurred by DME to serve the customers. DME, like most utilities, examines the cost to serve by rate class with the following major fixed components that require collection from customers in each rate class:



⁸ Based upon peak demand of 382 MW in summer 2018.

1. Debt and interest cost associated with assets and improvements in the distribution and transmission system
2. Fixed operating costs, including fixed labor costs, and materials
3. Franchise fees and Return on Investment payments from DME to the City
4. Internal service fund transfers (Customer Service, Technology Service, Procurement, Finance, etc.)
5. Transmission Cost of Services (TCOS) fees paid to ERCOT transmission system owners (including the credit that DME receives from non-DME TCOS rate payers across ERCOT)

These fixed costs are recovered from customers through the Facility Charge (\$8.67 per meter/month) and through the payment of base rates. Base rates, while variable based upon the energy consumed, are used primarily to recover fixed costs which do not vary based on the amount of energy consumed⁹. To ensure annual revenue sufficiency from its customers, DME projects the amount of energy that will be consumed in each rate class and sets the base rate to ensure that, at the projected energy consumption level and at the applicable base rate, annual revenue sufficiency is highly likely. For each class of customers, an estimate of energy consumption based data analysis, determines the projected base rate revenue that DME plans to achieve. Customers who have solar DG systems avoid the payment of base rates associated with the actual self-generated power due to the current DGR structure. As we all know, solar DG systems do not generate energy for self-consumption or surplus energy at night. The same is true for days when the solar panels are covered in snow or ice, on foggy mornings and on cloudy days. During these times, their energy needs are provided by DME. Because solar DG systems are intermittent generation resources, the equipment required by DME to ensure adequate delivery capacity must be engineered and built as though the solar DG systems do not exist. Thus, the fixed cost to serve each customer with solar DG is the same as those customers without solar DG systems¹⁰. The avoided base rates not paid to DME by the solar DG customer, represents a shortfall in the collection of needed fixed cost expenses to DME and referred to herein as the “Lost Base Rate Revenue”. Lost Base Rate Revenue is a true cost to DME that must be recovered from other customers since, as a result of the cost of service rate approach, all customers in the same class are assumed to pay the same base rate. For fiscal year 2021, the Lost Base Rate Revenue attributable to solar DG systems was approximately \$ 599,178. Over the life of DME’s solar rebate program, the Lost Base Rate Revenue amount is material at \$1.284 million and will continue to grow exponentially at the current build rate.

Some have argued that this Lost Base Rate Revenue is not a subsidy from those customers that don’t have solar DG systems to those that do. However, in its simplest form, since DME does not realize these revenues, rates could be lowered by the annual amount of the lost revenue if solar DG customers were contributing rates to support the true fixed cost incurred to serve them.

Variable costs incurred by DME to serve customers are recovered from the Energy Cost Adjustment (ECA) rate component. The major types of variable costs include:

1. Purchase power cost including the cost of renewable energy power purchase agreements and net market power purchases required to meet the demand of all DME customers.
2. Fuel costs associated with the operation of the DEC.
3. Consumable costs that are a function of generation including transmission and distribution energy losses and air pollution control equipment reagents.

⁹ DME’s current residential class base rate averages 5.070 cents per kWh.

¹⁰ A typical 1200 kW per month residential customer will impart the same demand on the DME system whether it has a solar DG system or not. As the monopoly provider of power to each customer, DME has the fiduciary responsibility to meet the needs of our customers regardless of the solar DG status. DME’s system is designed and built to meet the peak demand of all customers as though none had solar DG.

4. ERCOT fees and expenses related to the sale and purchase of energy and ancillary services to/from the wholesale electric market.

Pursuant to DME's Distributed Generation Rate (DGR), energy from solar DG systems delivered into the DME system is compensated at 10.6 cents per kWh. (\$106/MWh) up to the consumed energy amount. Excess energy above the host consumption level is compensated at the Renewable Credit Adjustment rate of 3.81 cents per kWh. This is the most expensive energy that DME purchases under contract and is both an above market price and an above renewable energy portfolio price. As can be seen in Figure 5, the average market value of the surplus energy has always been considerably less than the DGR. During fiscal year 2021, which included the high prices that occurred during winter storm Uri, the value of the surplus solar DG energy was only 3.725 cents per kWh. (\$37.25/MWh) This equates to a 65% premium that solar DG customers received versus the value of the energy to DME.

Figure 5 – ERCOT Historical Prices (\$/MWh)



Another way to look at the cost of purchasing the surplus solar DG energy is to compare what DME pays under the DGR versus the cost that DME pays for the renewable energy it purchases for all DME customers. For fiscal year 2020/2021, excluding the February storm period, the DME average cost of delivered Power Purchase Agreement (PPA) renewable energy was 2.71 cents per kWh. While solar DG customers have claimed that their surplus energy provides additional renewable energy to DME customers, DME is able to procure renewable energy at 25% of the cost that we are paying solar DG customers for their surplus renewable energy. Purchasing surplus solar DG energy from customers at the DGR (10.6 cents/kWh) and reselling to our customers at the ECA rate (3.41 cents/kWh) is a money losing proposition for DME. The difference in purchase price and sales price must be collected from DME customers supporting the finding herein that customers without solar DG are subsidizing those customers with solar DG systems.

TCOS Benefits of Solar DG to DME

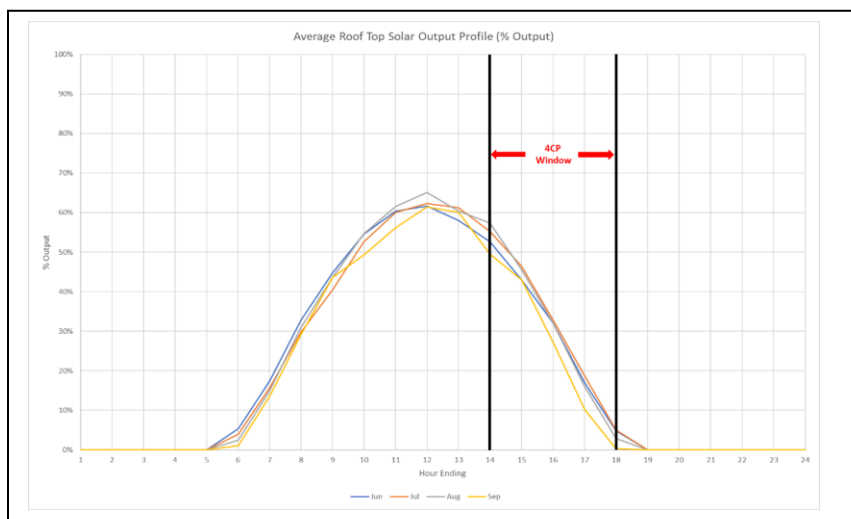
Solar DG customers have claimed that their contribution of installed generation capacity to the power supply lowers the cost of DME's annual Transmission Cost of Service (TCOS) expense that is allocable to all DME customers. DME's analysis provided herein discusses how TCOS works and how installed

solar DG capacity has the potential to reduce cost to all customers. However, the variability of solar DG, the individual electric demands of those customers and the non-correlation with the periods that set the TCOS rate each year, the value is difficult to quantify and is not significant.

Allocation of the annual cost of the ERCOT transmission system to all Load Serving Entities (LSEs) is based upon the highest fifteen-minute coincident peak demand across all of ERCOT during the months of June, July, August and September. Using ERCOT terminology this is called the 4 Coincident Peak Demands or “4CP”. To the extent rooftop solar DG resources are generating energy that would otherwise be purchased by DME from ERCOT, the 4CP for DME is lower and thus the annual transmission cost of service (“TCOS”) charge levied by ERCOT on DME is lower.

TCOS is a pass-through charge levied on all utilities to cover the cost of transmission infrastructure investment in the ERCOT transmission grid to ensure electric grid reliability and resiliency. TCOS charges are to be shared by all rate payers across all rate classes. Almost universally in ERCOT, and specifically by DME, those charges are recovered from residential customers on an energy or kilowatt hour (kWh) charge as part of the base rate. If the solar DG systems are operating and generating during the 4CP incidents, they have reduced the overall DME demand on the ERCOT system. Consequently, solar DG customers are partially realizing this benefit because DME’s overall 4 CP demand is lower and the revenue requirement from base rates is reduced to all DME customers.

Figure 6 – Solar DG Output Profile



Solar DG output is not well correlated with the time of day that the 4CP hour is likely to occur as shown in Figure 6. While peak demand is most likely to be between 4 pm and 6 pm, rooftop solar electrical output, due to its fixed sun angle is waning. Conversely, utility scale solar farms on rotating axis can continue to be close to their peak output.

As seen in recent events, weather changes can and will have an impact on generation

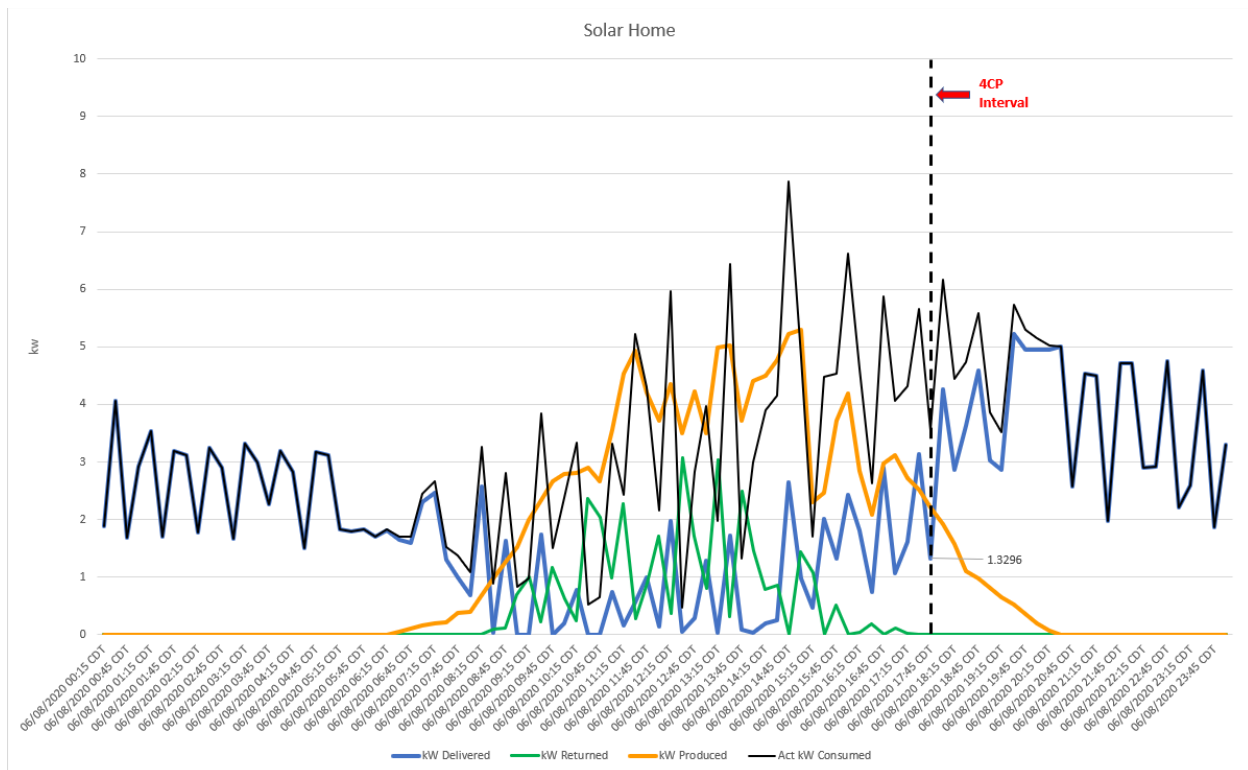
production and there is no certainty that a rooftop solar customer will fully offset a known portion of TCOS charges. However, TCOS is collected based on the amount of money spent and the 4CP demand set the previous year.

According to the graph in Figure 6, a homeowner with rooftop solar may observe between 50% to 5% solar output during a 4CP window assuming no cloud cover or other obstructions. Solar obstructions like clouds, neighbor rooflines and trees may have a significant impact to the rooftop solar output. In some cases, the output can drop to nearly zero kilowatts (kW) of rooftop solar production. Furthermore, the alignment of the panels to the sun has a direct correlation to the production at time of ERCOT Peak energy demand.

In Texas, the main heat of the day is typically observed later in the day which will correspond to more air conditioner load cycling on and off. With higher ambient temperatures, it takes longer for an air conditioner to drop the temperature of the interior of the home to the desired temperature, which results in longer periods of air conditioner energy demand.

Further evidence that solar DG correlation to the 4CP events and the lack of correlation to hourly ERCOT wholesale power prices is depicted in Figure 7 which illustrates the output of a rooftop solar installation of a DME homeowner during a 4CP event on 06/08/2020.

Figure 7 – 15 Minute Solar DG Performance and Net Energy Demand



The gold line reflects actual rooftop solar production however the actual production is not the smooth curve as illustrated in Figure 6. The irregular output is likely attributable to cloud coverage. The blue line depicts the household electrical demand and represents the cycling of household appliances including the air conditioning system. The green line represents surplus solar DG power injected back to the DME distribution system which DME purchases from the homeowner at the DGR. Notice that energy sales (green line) are highest whenever home demand (blue line) is lowest while solar output production (gold line) is present. As noted earlier, the change in demand is not very predictable and can change dramatically from one 15-minute interval to the next. The black line represents the actual power that would have been consumed if the solar production dropped to zero. While the homeowner's consumption was only 1.3296 kW during the 4CP interval, the consumption could have been many times higher inside of the 4CP window between 4pm and 6pm. A few take-aways from this typical roof-top solar customer include:

- Solar DG production in excess of the home demand (surplus energy) occurs in periods where total demand and thus wholesale ERCOT market prices are lower than during the 4 CP period. In many intervals during the year, DME is buying this surplus energy from the customer at a higher

cost than the prevailing wholesale cost of the energy. Consequently, DME's cost of power supply to the non-roof top solar customers is higher than it would otherwise be during such periods due to the DGR that DME is paying. This is very common during periods of high solar output and low demand in the morning and early afternoon of winter, spring and fall.

- Virtually no surplus energy is generated during the 4CP period although there is avoided energy purchases from ERCOT by DME due to self-supply by the customer
- Every roof-top solar installation is different due to sun angle, tree shadowing, system efficiency, smart thermostats, smart home systems, geofencing, personal preference on ambient home temperature, system maintenance, age, etc.
- As the provider of last resort, with the fiduciary responsibility to serve, DME has to plan its system to meet the peak demand of customers at all times. Clear skies in Denton during the 4CP interval(s) does not impact the size of the conductors, the transformers or any other system component as DME must plan to provide the peak demand during all periods including when cloud cover in Denton during a 4CP interval occurs. While there is a high potential for 4CP benefits from roof-top solar, from a planning and engineering perspective, DME can't reduce the size of its system infrastructure and thus must have sufficient revenues from all customers to support such infrastructure (revenue adequacy)

Every Transmission Distribution Utility (TDU) in ERCOT must plan and build the ERCOT transmission and distribution systems to absorb these swings in demand. Failure to do so would result in electrical line overloads, which could damage equipment and can manifest itself on the transmission grid as congestion which leads to additional costs to every rate payer in ERCOT.

TCOS Impact Conclusion

Rooftop solar customers currently pay less in TCOS because it is imbedded within the base rate, which is avoided by the solar DG customers for each kWh of energy that they self-generate. Because 4CP savings are imbedded in the base rates and reflect the cumulative impact of all solar DG systems and any conservation efforts that are impacting DME total demand, coupled with the fact that DME has no way to determine the total surplus solar DG energy produced in any 4CP interval, no determinative credit can be calculated for the potential TCOS savings that may occur.

Overall Cost of DME's Solar DG Programs

Using the sources of value and costs described below, the cost of all DME solar DG programs can be represented by the following equation:

$$\text{Cost of Solar Programs} = \text{Rebate} + \text{Lost Base Rate Revenue} - \text{Surplus Solar DG Energy Purchases by DME} + \text{Market Value of Surplus Solar DG Energy}$$

Where:

Rebate = the total rebate provided by DME to solar DG investors (\$2,974,045)

Lost Base Rate Revenue = revenue not collected by DME due to energy that is self-generated by customer as discussed above (\$1,824,931)

Surplus Solar DG Energy Purchases by DME = Amount paid by DME to solar DG customers for surplus energy generation (\$1,584,032)

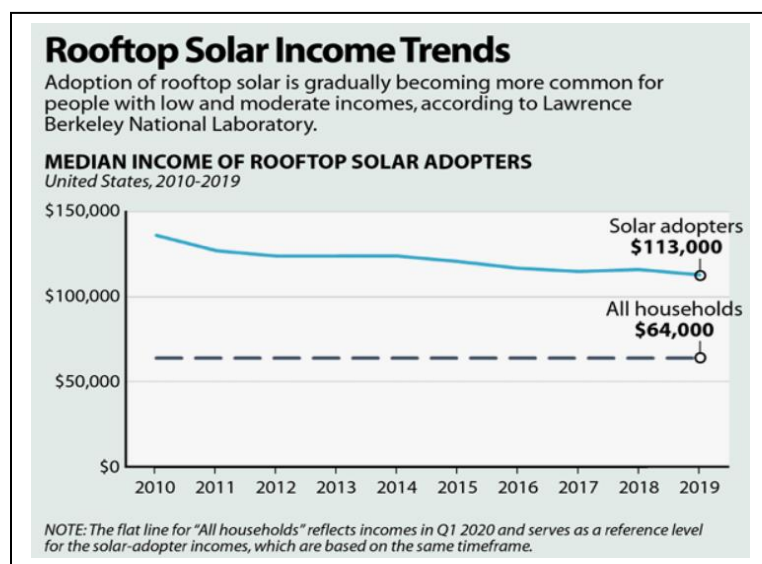
Value of Surplus Solar DG Energy = the market value of surplus solar DG energy as discussed above (\$1,198,040)

The above equation results in a total cost of DME's distributed generation solar programs costing customers \$5.2million since its inception as part of the GreenSense program beginning in 2009. Each year the cost to DME customers increases over the prior year due to the higher adoption level of solar DG systems on the DME system. For fiscal year 2021, the annual cost was \$1.2 million. These program expenses are real costs that burden all non-solar DG customers and primarily benefit those customers who have had the financial means to afford DG systems. Figure 8 below shows the historical trend of households that have invested in solar DG systems over the life of DME's solar programs. At the asymptotical rate of increasing solar DG system additions (see figure 3), the economic burdens that will be placed on DME's customers in providing the existing level of subsidy to solar DG customers will continue to grow in the same manner. Many utilities not only have significantly restructured their solar programs but have also placed hard capacity limits on how much additional solar DG will be permitted on their systems.

Comparative Solar DG Programs at Texas Municipals

Before comparing the solar programs around Texas, the reader is again reminded that DME is unique in its 100% renewable energy supply to all customers. All other municipalities aspire to reducing their carbon emissions, yet none of those used for comparison are anywhere close to what Denton has achieved. Table 2 shows the comparative solar DG rates and programs offered.

Figure 8



Denton has the most economically advantaged solar program of the municipals examined in Texas. The areas surrounding Denton are served by CoServ and Oncor. Oncor only provides delivery service to customers and the energy is provided through competitive retailers. Existing customers with that install solar DG systems that have integrated battery storage are eligible for a rebate/incentive payment from Oncor. The incentive is only available to existing residential homeowners, not to new homes and are limited to systems between 3kW and 15 kW only.

Solar DG customers on the Oncor system do not receive any compensation for surplus solar energy, only the credit associated with energy not purchased from their Retail Energy Provider (REP).

CoServ Electric does not provide any compensation to solar DG customers. They only install a bidirectional meter to permit the customer to net their purchases with their surpluses. However,

Table 2 – Comparative Municipal Solar Rates

Austin	9.7	Surplus to monthly purchases from AE roll to next month
Garland	4.69	Only in amounts that offset purchases from GP&L monthly
Lubbock	2.9	Only in amounts that offset purchases from LP&L monthly
SanAntonio	1.65	Only applied to energy in excess to that which is sold by CPS to customer
Brownsville	floating	Priced at monthly fuel + energy costs (~3 cents/kWh)
New Braunsfels	0	provides rebate of \$1.58/kW installed. Surplus banked for future months
Denton	10.81	Rebates on top of solar rate

homeowners will not be permitted to put systems in place that are sized to produce more energy than the home consumes during the low demand spring and fall seasons.

Summary and Conclusions

DME offers what is arguably the best solar DG incentive packages in Texas despite the fact that all DME customers are already receiving 100% renewable energy. This distinction is important because no other city in Texas providing

solar DG incentives has achieved this objective. While incentives were laudable and justified prior to the Denton Renewable Resource Plan and while working towards 100% renewable energy supply, Denton's leadership position among Texas communities and its achievement of the objectives of the Denton Renewable Resource Plan no longer warrant incentives. This generous program has resulted in the development and installation of over seven (7) MegaWatts of solar DG in the past 10 years. The decisions made by customers relative to new solar DG investments should be based on the strict economics of the investment since the carbon emissions reduction goals associated with power supply in Denton have been achieved and **ALL DME customers** now are served with 100% renewable energy. Further, the incentives in the GreenSense program have resulted in a significant cross rate class subsidy from those customers who do not have solar DG to those that do. That subsidy is no longer warranted given the renewable energy supply all DME customers realize. Even absent the GreenSense Solar rebates and the elimination of the DGR the economics of solar DG will drive solar DG investments and, if not discontinued as recommended, will continue to grow the cross subsidization from those customers that can't afford to make the investment in solar DG to those that can.

The need for the GreenSense Solar rebate is no longer needed to incentivize additional solar DG investment as capital costs have dropped 64% and solar panel efficiencies have improved by 28%. The DGR at 10.6 cents/kWh is the costliest source of renewable energy that DME purchases and is significantly above the value that such surplus energy has in the wholesale market. Further, DME's average cost of renewable energy from its long-term power purchase agreements was 2.7 cents/kWh in fiscal year 2021¹¹. DME customers are receiving the lowest cost renewable energy possible as a result of the mandates of the Denton Renewable Resource Plan. Staff recommends the following:

- A. The solar rebate provided under the GreenSense program should be eliminated. The \$500,000 per year budgeted for solar DG rebates should be re-directed to programs that have the potential to contribute to the policy objectives of Denton's sustainability plans.
- B. DME should recover appropriate fixed costs from each solar DG customer and crediting those customers the market value of their solar DG energy by eliminating the Distributed Generation Rate (DGR) and providing credits to solar DG customers no higher than the Energy Cost Adjustment (ECA) rate, which may vary.
- C. To the extent that a solar DG customer's credit exceeds the amount due to DME in any month, the credit should not offset other City of Denton billed utilities (water/wastewater/solid waste).

While there are theoretical savings associated with potential reduced TCOS charges to DME from solar DG installations, monetizing these theoretical amounts in the form of higher prices paid for surplus solar DG energy is not justified. The variation in host facility demand, the non-correlation of surplus energy to the 4 Coincident Peak (4CP) does not permit DME to calculate a value that would be representative in all years and the amount of the benefit is inconsequential relative to DME's overall TCOS expenses.

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¹¹ Adjusted for winter storm Uri costs.

Appendix 1 – Solar Program ISR Additional Considerations

Winter Storm URI Implications

The February 2021 winter storm Uri impacts to the ERCOT Market were severe and will have long lasting effects. The high penetration of renewables in ERCOT and the retirement of conventional thermal generation has highlighted the impacts a storm like Uri can have on the ERCOT transmission grid. The snow, ice and cloud coverage rendered many thermal and renewable generation resources inoperable while the ERCOT system energy demand was approaching all-time highs. According to ERCOT, the record demand and loss of generation brought the entire grid to within 4 minutes of experiencing a system wide blackout. During this time the heavy cloud coverage across the entire state dramatically reduced the output of rooftop solar system however heating demand was at all-time records. As discussed earlier, ERCOT transmission planners must build the system to withstand and absorb the swings in power consumption to increase the resiliency of the ERCOT Transmission Grid. This impact was enough for ERCOT to consider expanding the current 4CP program to 6CP. The change to 6CP would incorporate the winter months of January and February to the current calculation. This change is still being evaluated by ERCOT and Market Participants as well as many other impacts to the ERCOT Market. If 4CP is expanded by 2 winter months, the contribution of rooftop solar to the early morning winter peak offsets we be near zero.

While several DME customers with roof-top solar have inquired about the ability of DME to permit them to “island” their home from the system during period of distribution system outages of the type seen during URI, changes to the interconnection control and protection schemes for such roof-top solar are needed. However, during URI the ability to “island” would have had very little impact to the average roof-top system due to the ice and snow cover and the cloudiness the rest of the week. Further, peak demands were taking place a night when temperatures were at their lows and unless there were integrated battery storage systems with longer than one-hour discharge periods, there is limited value to DME with respect to 6CP impacts. Unless the homeowner’s system was “intelligent” enough to be discharging during the coincident peak demand, most likely at night, the home would be contributing to 6CP TCOS demand.

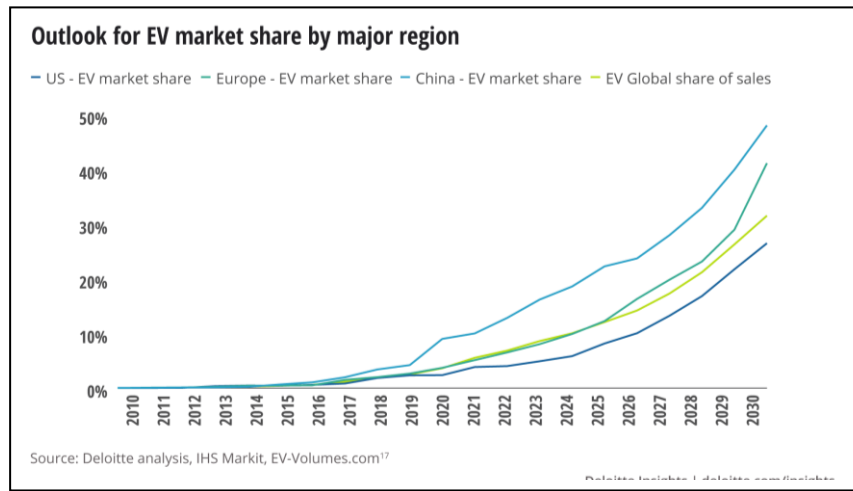
Electric Vehicle impact on 4CP (Future Changes)

The Electric Vehicle (EV) market in the United States is still in its infancy however its market share is expected to grow over the next several years. Figure A1 below indicates that the EV market share will increase to 25% or more of the total vehicle sales market share.

While it may not seem like an extreme, at these projected EV penetration levels there will be an incredible strain on the current ERCOT transmission grid. As electric customers return home from work, the transmission system will not only experience large energy demand from air conditioners but in the future, assuming high EV penetration rates, there will likely be additional demand from charging EVs. The additional load of charging EVs will likely cause a shift in the 4CP interval to later into the afternoon where solar production may be reduced to nearly zero kW of output. ERCOT transmission planners will also be charged with building and fortifying the current ERCOT transmission grid to support the increase in charging stations for EVs. ERCOT, by statutory authority, must pass these incremental costs onto all users of the ERCOT system, meaning all electric customers including DME customers.

Figure A1

“Electric Vehicles: Setting a course for 2030”



To the extent that DME can incentivize the installation of onsite battery storage for surplus solar DG energy at the host facility, that stored energy could be used to recharge the EV and potentially avoid transmission and distribution infrastructure investments. However, it is too early in the EV adoption timeline to determine the value proposition.

Additionally, there are a

number of policy issues related to providing incentives and the needed ability of DME to control the use of battery storage so that system design and infrastructure savings can be realized. To the extent that policy bodies want to examine this possibility staff can prepare an ISR on the subject.

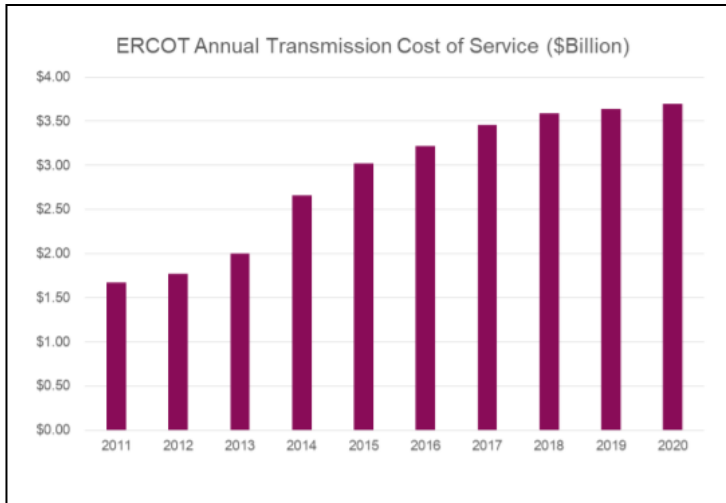
TCOS Background Information

In ERCOT funds expended by Transmission Service Providers (TSPs) to construct new transmission improvement projects are added to their rate base, and they are repaid for the investment over the depreciated life of the project along with a rate of return on the project that is regulated and approved by the Public Utility Commission of Texas (PUCT). This repayment, as well as TSP overhead and maintenance, is summed annually and charged as a transmission access fee to consumers throughout ERCOT. This is known as the ERCOT Transmission Cost of Service (TCOS). As shown in ~~Figure~~ Figure 1 below, TCOS in ERCOT has increased over time as the investment in transmission has outpaced transmission depreciation due to oil and gas exploration, renewable energy penetration and population growth.

Figure A2 – TCOS Charges

Once the ERCOT Transmission Cost of Service has been approved by the PUCT, the costs must be distributed among all ERCOT customers (both Non-Opt In Entities (“NOIE”) and competitive) as part of the societal benefit of accessing the ERCOT transmission grid. DME, along with other municipals and cooperatives are NOIEs as retail electric competition has not been selected by their governing bodies. To accomplish this, ERCOT allocates costs based on the energy demand during the four 15-minute peak events or 4 Coincident Peaks (4CP). ERCOT will determine the 4CP peak events during the four summer months: June, July, August, and September. Only one peak 15-minute interval in each of the four summer months will be used in the 4CP calculation to allocate TCOS charges to every Transmission Distribution Utility (TDU) in ERCOT.

During the days where there is a high expectation of a 4CP peak event, DME employs voltage reduction program on our system to reduce DME’s overall energy demand. If DME’s energy demand is high during the 4CP events, DME will be charged more in TCOS charges the following year. Conversely, by



lowering our energy use during a 4CP event, we're able to enjoy a lower rate since we're effectively using fewer transmission grid resources.

Determining which 4CP intervals will be used during each of the 4 summer months can be a challenge because of the variation in weather and energy demand during that time. While we have a general understanding that a 4CP event will occur between 2:00pm and 6:00pm, it is very challenging to narrow the 4CP window down to a 15min interval on any given day during each month. Predominately, the 4CP

intervals are usually determined on an after the fact or "look back" basis.



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AGENDA CAPTION

Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff regarding financial matters regarding transmission cost of service (TCOS); discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorneys regarding legal issues associated the above matter where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under Texas Disciplinary Rules of Professional Conduct of State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.



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File #: PUB23-018, Version: 1

AGENDA CAPTION

Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff regarding financial matters regarding the data center (Core Scientific); discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorneys regarding legal issues associated the above matter where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under Texas Disciplinary Rules of Professional Conduct of State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.