



City of Denton

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

Meeting Agenda City Council

Tuesday, August 6, 2024

2:00 PM

Council Work Session Room
&
Council Chambers

WORK SESSION BEGINS AT 2:00 P.M. IN THE COUNCIL WORK SESSION ROOM

CLOSED MEETING BEGINS IMMEDIATELY FOLLOWING THE WORK SESSION IN THE COUNCIL WORK SESSION ROOM

REGULAR MEETING BEGINS AT 6:30 P.M. IN THE COUNCIL CHAMBERS

REGISTRATION GUIDELINES FOR ADDRESSING THE CITY COUNCIL

Individuals may speak during a Council meeting under one of the following categories:

Open Microphone:

At regular meetings only, individuals can speak on any topic that is not on the agenda for no longer than four (4) minutes per individual. This portion of the meeting occurs immediately after the start of the regular meeting session. Please note, Council members cannot engage in a discussion on topics presented during this portion and there are limited slots available for this portion of the meeting.

Comments on Agenda Items:

Public comments can be given for any item considered by the Council, EXCEPT work session reports or closed meetings. Individuals are only able to comment one time per agenda item and cannot use more than one method to comment on a single agenda item. Public comments are limited to three (3) minutes per citizen.

Public Hearing Items:

Individuals are limited to four (4) minutes per public hearing item.

Individuals may participate by using one of the following methods:

1. In Person for Regular or Consent Agenda Items:

To provide in-person comments regular or consent agenda items (excluding public hearing items), Individuals must be present at the meeting and submit a speaker card (available at the meeting location) to the City Secretary prior to the item being called.

2. In Person for Public Hearing Items:

For public hearing items, speaker cards are encouraged but not required.

3. eComment:

The agenda is posted online at www.cityofdenton.com/publicmeetings. 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 City Council immediately upon submission and recorded by the City Secretary into the Minutes of the Meeting.

4. By Phone:

Individuals may register to provide comments by phone. Instructions and a link to register to comment by phone will be available at www.cityofdenton.com/publicmeetings until noon of the meeting date. Residents will submit contact information using the link provided and receive further instructions via email on how to join the meeting by phone and provide comments.

After determining that a quorum is present, the City Council of the City of Denton, Texas will convene in a Work Session on Tuesday, August 6, 2024 at 2:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas at which the following items will be considered:

WORK SESSION**1. Citizen Comments on Consent Agenda Items**

This section of the agenda allows citizens to speak on any item listed on the Consent Agenda prior to its consideration. Each speaker will be given a total of three (3) minutes to address any item(s). Any person who wishes to address the City Council regarding these items may do so by utilizing the "By Phone" registration process as referenced under the REGISTRATION GUIDELINES FOR ADDRESSING THE CITY COUNCIL detailed at the beginning of this agenda. Registration is required prior to the time the City Council considers this item. Registrants may call in and remain on hold or receive a call back at the time the Work Session is called to Order and are encouraged to ensure they remain accessible to accept the call.

2. Requests for clarification of agenda items listed on this agenda for public hearing and individual consideration.

This section allows members of the City Council to ask questions on items listed on this agenda for public hearing and individual consideration. Responses to questions on items listed under the consent agenda that are received prior to the meeting are available by clicking on Exhibit 1 below. The responses will be available prior to the start of the meeting, when applicable. Any handouts distributed at the meeting will also be uploaded to the below link by 12:00 p.m. on the business day following the meeting. Members of the Council may remove items from the consent agenda. When items are removed from the consent agenda and placed on the regular agenda by members of the council, the removed items shall be taken up in the order of removal right after the consent agenda.

A. [ID 24-475](#) Meeting Questions, Responses & Handouts

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

3. Work Session Reports

- A. [ID 24-249](#) Receive a report, hold a discussion, and give staff direction regarding Audit Project 040 - Vendor Management.
[Estimated Presentation/Discussion Time: 30 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
[Exhibit 2 - Audit of Vendor Management.pdf](#)
[Exhibit 3 - Presentation.pdf](#)
- B. [ID 24-250](#) Receive a report, hold a discussion, and give staff direction regarding Audit Project 023 - Payroll Administration: Follow-Up Review.
[Estimated Presentation/Discussion Time: 15 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
[Exhibit 2 - Follow-Up Review of the Audit of Payroll Administration.pdf](#)
[Exhibit 3 - Presentation.pdf](#)
- C. [ID 24-251](#) Receive a report, hold a discussion, and give staff direction regarding Audit Project 032 - Fleet Services Operations: Fuel Management and Fuel Card Administration Follow-Up Review.
[Estimated Presentation/Discussion Time: 15 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet.pdf](#)
[Exhibit 2 - Follow-Up Review of the Audit of Fleet Services Operations - Fuel Management.pdf](#)
[Exhibit 3 - Presentation.pdf](#)
- D. [ID 24-287](#) Receive a report, hold a discussion, and give staff direction regarding the Denton's Affordable Housing Bond priorities to develop and preserve affordable housing in Denton.
[Estimated Presentation/Discussion Time: 30 minutes]
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Presentation](#)

Following the completion of the Work Session, the City Council will convene in a Closed Meeting in the Council Work Session Room to consider specific item(s) when these items are listed below under the Closed Meeting section of this agenda. The City Council 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.

1. Closed Meeting:

- A. [ID 24-1408](#) Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Manager.
- B. [ID 24-1409](#) Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Attorney.

- C. [ID 24-1384](#) 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. This agenda item is related to Items for Individual Consideration Agenda Item A. ID 24-1382 and Item B. ID 24-1383 and will be a placeholder unless Council members have questions requiring confidential discussion as allowed by law.

Receive information from staff containing public power information related to a Power Purchase Agreement between the City of Denton, as the seller of power and electric energy services, and SPRE Denton TX, LLC; discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorney regarding issues associated with the above matter where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under Texas Disciplinary Rule of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative or potential litigation.

- D. [ID 24-1555](#) Consultation with Attorneys - Under Texas Government Code Section 551.071. This agenda item is related to Consent Agenda Item I. ID 24-1554 and will be a placeholder unless the item is pulled for individual review.

Consult with the City's attorneys on the legal status, strategy and options for resolution of litigation in Cause No. 24-1005-481, styled "State of Texas v. City of Denton; Gerard Hudspeth, Mayor of Denton; Brian Beck, Mayor Pro Tem of Denton; Vicki Byrd, Paul Meltzer, Joe Holland, Brandon Chase McGee, and Chris Watts, Members of the City Council of Denton; Sara Hensley, City Manager of Denton; and Doug Shoemaker, Chief of Police of Denton; in their official capacities" pending in the 481st District Court, Denton County, Texas; where 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 the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position in pending litigation.

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 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 City Council 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 Sections 551.071-551.086 of the Texas Open Meetings Act.

NOTE: Any item for which a formal action at the Regular Meeting has been taken by Council may be subject to a request for a motion for reconsideration at any time during the meeting, at the Concluding Items Section, or after the meeting. In order to comply with the Texas Open Meetings Act, a request for a motion for reconsideration made during, at the end of, or after a Council meeting will be placed on the agenda and considered at the next official meeting of the City Council.

Following the Closed Meeting, the City Council will reconvene in Open Meeting to take action, if any, on matters discussed in closed session.

AFTER DETERMINING THAT A QUORUM IS PRESENT, THE REGULAR MEETING OF THE CITY OF DENTON CITY COUNCIL WILL CONVENE AT 6:30 P.M. IN THE COUNCIL CHAMBERS AT CITY HALL, 215 E. MCKINNEY STREET, DENTON, TEXAS AT WHICH THE FOLLOWING ITEMS WILL BE CONSIDERED:

1. PLEDGE OF ALLEGIANCE

- A. U.S. Flag
- B. Texas Flag

“Honor the Texas Flag – I pledge allegiance to thee, Texas, one state under God, one and indivisible.”

2. PROCLAMATIONS/PRESENTATIONS

- A. [ID 24-1189](#) Proclamation: National Aviation Day
- B. [ID 24-1452](#) Proclamation: Summer Youth Jobs Program Day
- C. [ID 24-1480](#) Proclamation: Community Health Centers: Powering Communities through Caring Connections

3. PRESENTATIONS FROM MEMBERS OF THE PUBLIC

- A. Review of procedures for addressing the City Council.

B. Reports from members of the public shall be received through the following two (2) methods. A total of up to seven (7) speakers are permitted to provide public comment and may include any combination of prior registration and open microphone speakers.

1) Pre-registration. This section of the agenda permits any person who has registered in advance to make a citizen report regarding a public business item he or she wishes to be considered by the City Council. Each speaker is allowed a maximum of four (4) minutes to present their report. At the conclusion of each report, the City Council may pose questions to the speaker or may engage in discussion. If the City Council believes that a speaker's report requires a more detailed review, the City Council will give the City Manager or City Staff direction to place the item on a future work session or regular meeting agenda and advise staff as to the background materials to be desired at such meeting.

- a. [ID 24-1497](#) Ms. Donna Smith regarding moving forward.
- b. [ID 24-1498](#) Ms. Debbie Scaggs regarding current issues.
- c. [ID 24-1499](#) Mr. Charles Lee regarding presidential nominations.

- d. [ID 24-1500](#) Ms. Melinda Preston regarding upcoming elections.
- e. [ID 24-1501](#) Ms. Tracy Duckworth regarding homelessness.
- f. [ID 24-1502](#) Ms. JF Plangman regarding sanctuary city.
- g. [ID 24-1506](#) Ms. Mary Kuhfeldt regarding mortarium request at Denton apartment cities and stopping big apartment building.

2) Open Microphone. This section of the agenda permits any person who has not registered in advance for a citizen report to make comments about public business items not listed on the agenda. Such person(s) shall have registered using the “Virtual White Card” or “By Phone” process outlined by the City on its website or meeting notice.

During open microphone reports under this section of the agenda, the Council may listen to citizens speak. However, because notice of the subject of the open microphone report has not been provided to the public in advance, the Texas Open Meetings Act limits any deliberation or decision by the Council to: a proposal to place the item on a future agenda; a statement of factual information; or a recitation of existing policy. Council Members may not ask the open microphone speakers questions or discuss the items presented during open microphone reports.

NOTE: If audio/visual aids during presentations to Council are needed, they must be submitted to the City Secretary 24 hours prior to the meeting.

4. CONSENT AGENDA

Each of these items is recommended by Staff or a board, commission, and committee. Approval thereof will be strictly on the basis of the those recommendations. Approval of the Consent Agenda authorizes the City Manager or his designee to implement each item in accordance with the Staff recommendations. The City Council has received background information and has had an opportunity to raise questions regarding these items prior to consideration.

For those items recommended by a specific board, commission, or committee, the agenda item will reference that recommendation. To view the video of the related board, commission, or committee meeting, as applicable, a link can be found within the applicable supporting documentation (Exhibit 1).

Listed below are bids, purchase orders, contracts, and other items to be approved under the Consent Agenda (Agenda Items A – S). This listing is provided on the Consent Agenda to allow Council 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. [ID 24-499](#) Consider nominations/appointments to the City’s Boards, Commissions, and Committees: Community Services Advisory Committee.
Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Nominations List](#)
- B. [ID 24-1485](#) Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Behavioral Health Leadership Team; and providing an effective date.

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

[Exhibit 2 - Proposed Resolution](#)

- C. [ID 24-1488](#) Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Housing and Homelessness Leadership Team; and providing an effective date.

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

[Exhibit 2 - Proposed Resolution](#)

- D. [ID 24-1489](#) Consider approval of a resolution of the City of Denton appointing Council Member Vicki Byrd as a member to the Denton County Workforce Success Leadership Team; and providing an effective date.

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

[Exhibit 2 - Proposed Resolution](#)

- E. [ID 24-1490](#) Consider approval of a resolution of the City of Denton appointing Council Member Brian Beck as a member to the Denton Community Shelter (Loop 288) Advisory Board; and providing an effective date.

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

[Exhibit 2 - Proposed Resolution](#)

- F. [ID 24-1510](#) Consider approval of a nominee(s) appointing members to the Committee on the Environment, and providing an effective date.

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

- G. [ID 24-1512](#) Consider approval of a nominee(s) appointing members to the Mobility Committee, and providing an effective date.

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

- H. [ID 24-1536](#) Consider adoption of an ordinance of the City of Denton approving an Agreed Final Judgment for Cause No. PR-2022-00917-A Case Style: "City Of Denton V. Walter E. Leatherwood And Betty A. Leatherwood, Individually And As Trustees Of The Walter E. Leatherwood And Betty A. Leatherwood Living Trust" pending in the Denton County Probate Court, Denton County, Texas;" and directing the City Manager and the City's Attorney to effectuate as necessary and appropriate the terms of an Agreed Final Judgment; authorize the expenditure of funds not to exceed Eight Hundred Thousand And 00/100 dollars (\$800,000.00) for a total settlement amount of (\$1,5000,000.00); and declaring an effective date.

Attachments: [Exhibit 1 - AIS.pdf](#)

[Exhibit 2 - Ordinance.pdf](#)

- I. [ID 24-1554](#) Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to an engagement between the City of Denton and Lloyd Gosselink Rochelle & Townsend, P.C., amending the engagement approved by the City Attorney on March 28, 2024, in the not-to-exceed amount of \$155,000.00; said first amendment to provide additional legal services for the City of Denton; providing for the

expenditure of funds therefor; and providing an effective date (File 8554 - providing for an additional first amendment expenditure amount not-to-exceed \$155,000.00, with the total contract amount not-to-exceed \$200,000.00).

Attachments: [Exhibit 1 - AIS.pdf](#)
 [Exhibit 2 - Ordinance.pdf](#)

- J. [ID 24-1420](#) Consider approval of a resolution of the City of Denton, Texas, adopting the City of Denton's Climate Action Plan, which outlines the City's Science-based Path to achieve Net Zero Greenhouse Gas Emissions by 2050; and providing an effective date.

Attachments: [Exhibit 1: Agenda Information Sheet](#)
 [Exhibit 2: Resolution and Climate Action Plan](#)

- K. [ID 23-2045](#) Consider adoption of an ordinance of the City of Denton determining the public use, need and necessity for the acquisition of approximately of 2.151 acres of land located along Hercules Lane, in B.B.B. and C.R.R Company Survey, Abstract Number 186, City and County of Denton, Texas being all of Lot 1R-2 in Block 1 of T.N.B.C., in the City of Denton, Denton County, Texas, according to the plat recorded under Document No. 2024-52 of the (P.R.D.C.T.) Plat Records, Denton County, Texas; for the purpose of a future park land; authorizing the expenditure of funds not to exceed Three Hundred Ninety-Five Thousand Dollars and No/100 (\$395,000.00) and associated closing costs; and providing for severability and an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Location Map](#)
 [Exhibit 3 - Ordinance](#)

- L. [ID 24-1339](#) Consider adoption of an ordinance of the City of Denton providing for the abandonment, relinquishment, and quitclaim of two (2) drainage easements approximately a total of 1.977-acres, situated in the G. Walker Survey, Abstract Number 1330, recorded document number 2020-52852 and 2020-52854, granted to the City of Denton by Pulte Homes of Texas, L.P., being a portion described by deed document number 2019-73001, of the Real Property Records of Denton County, Texas; providing for the quitclaim thereof to Pulte Homes of Texas, L.P.; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a easement and/or facilities to the City of Denton; providing for the indemnification of the City of Denton against damages arising out of the abandonment herein; providing for consideration to be paid to the City of Denton; providing for severability and an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Location Map](#)
 [Exhibit 3 - Ordinance](#)

- M. [ID 24-1473](#) Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a Façade and Building Renovation

Rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Agreement and Ordinance](#)
[Exhibit 3 - Presentation](#)
[Exhibit 4 - HPO Review](#)
[Exhibit 5 - LLC Search](#)

- N. [ID 24-1492](#) Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Ordinance and Agreement](#)
[Exhibit 3 - Presentation](#)
[Exhibit 4 - HPO Review](#)
[Exhibit 5 - LLC Search](#)

- O. [ID 24-952](#) Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Ordinance and Agreement](#)
[Exhibit 3 - Presentation](#)
[Exhibit 4 - HPO Letter](#)
[Exhibit 5 - LLC Search](#)

- P. [ID 24-1496](#) Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. From the Downtown Reinvestment Grant Program for a Utility upgrade, Façade and Building renovation, Awning, and Interior and Code Improvements rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
[Exhibit 2 - Ordinance and Agreement](#)
[Exhibit 3 - Presentation](#)
[Exhibit 4 - HPO Review](#)
[Exhibit 5 - LLC Search](#)

- Q. [ID 24-1481](#) Consider 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 Graham Associates, Inc., amending the contract approved by City Council on October 19, 2010, in the not-to-exceed amount of \$5,444,253.00; said first amendment to

provide additional engineering services needed for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 4520 - providing for an additional first amendment expenditure amount not-to-exceed \$585,141.25, with the total contract amount not-to-exceed \$6,029,394.25).

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

- R. [ID 24-1482](#) Consider adoption of 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 John Hoggard dba Utility Planning Network (UPN), amending the contract approved by the City Council on January 12, 2021, in the not-to-exceed amount of \$200,000.00; amended by Amendments 1 and 2 approved by City Council and Purchasing; said third amendment to provide additional services and extend the contract term between the City of Denton and John Hoggard dba Utility Planning Network (UPN) through April 30, 2025; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7485 - providing for an additional third amendment expenditure amount not-to-exceed \$115,000.00, with the total contract amount not-to-exceed \$514,000.00, and extending a contract with John Hoggard dba Utility Planning Network (UPN) through April 30, 2025).

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

- S. [ID 24-1483](#) Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Texas Cemetery Restoration LLC, for ground penetrating radar, GPS/GIS surveying and mapping, and monument repair for the IOOF and Oakwood Cemeteries for the Parks and Recreation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8458-1 - awarded to Texas Cemetery Restoration LLC, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$500,000.00).

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

5. PUBLIC HEARINGS

- A. [DCA23-0002](#) Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code, regarding short-term rental use regulations and definitions, specifically amendments to Table 5.2-A- Table of Allowed Uses, Subsection 5.3.1 Use-Specific Standards - Generally, Subsection 5.3.5: Commercial Use-Specific Standards, Table 7.9-I Parking, and Section 9.2: Definitions; providing for a penalty in the maximum amount of \$2,000.00 for
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violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villareal and seconded by Commissioner Pruett. THIS ITEM HAS BEEN PLACED ON THE AGENDA DUE TO A TIE VOTE AT THE JULY 23, 2024 CITY COUNCIL MEETING. IN ORDER TO COMPLY WITH NOTICE REQUIREMENTS, NO ACTION WILL BE TAKEN ON THIS ITEM UNTIL THE SEPTEMBER 24, 2024 CITY COUNCIL MEETING. (DCA23-0002g, Short-Term Rentals, Angie Manglaris)

Attachments:

[Exhibit 1 - Agenda Information Sheet](#)

[Exhibit 2 - Staff Analysis](#)

[Exhibit 3 - Redline Short-Term Rental Code Amendments](#)

[Exhibit 4 - Short-Term Rental Survey Results](#)

[Exhibit 5- Survey Summary Presentation](#)

[Exhibit 6 - Public Comment](#)

[Exhibit 7 - Draft Ordinance](#)

[Exhibit 8 - Presentation](#)

- B. [Z24-0008a](#) Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a request to rezone approximately 7.8 acres of land from Rural Residential (RR) District to Light Industrial (LI) District generally located approximately 400 feet south of US 380 and approximately 1,300 feet west of N. Masch Branch Road in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Ellis and seconded by Commissioner Pruett. (Z24-0008a, Billingsley D&D Inc.- RR to LI, Erin Stanley)

Attachments:

[Exhibit 1 - Agenda Information Sheet](#)

[Exhibit 2 - Staff Analysis](#)

[Exhibit 3 - Applicant's Project Narrative](#)

[Exhibit 4 - Site Location Map](#)

[Exhibit 5 - Future Land Use Map](#)

[Exhibit 6 - Existing Zoning Map](#)

[Exhibit 7 - Proposed Zoning Map](#)

[Exhibit 8 - Table of Allowed Uses](#)

[Exhibit 9 - Notification Map and Responses](#)

[Exhibit 10 - Sign Posting Affidavit and Photos](#)

[Exhibit 11 - Draft Ordinance](#)

[Exhibit 12 - Presentation](#)

- C. [DCA24-0008a](#) Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code Subchapter 2. Administration and

Procedures, Subsection 2.3.3B Planning and Zoning Commission Operational Procedures; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villarreal and seconded by Commissioner Pruett. (DCA24-0008, P & Z Reconsideration Process, Keisha Cyriaano)

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Staff Analysis](#)
 [Exhibit 3 - Draft Ordinance](#)
 [Exhibit 4 - Presentation](#)

6. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. [ID 24-1382](#) Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, approving a power purchase agreement between the City and SPRE Denton TX, LLC., a Texas Limited Liability Company; ratifying the equity investor letter agreement; and providing for an Effective Date. The Public Utilities Board recommends approval (6-0).

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Ordinance and Redacted PPA](#)
 [Exhibit 3 - Presentation](#)

- B. [ID 24-1383](#) Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a lease with SPRE Denton TX, LLC for approximately 4 acres of City-owned property located in the City and County of Denton, Texas; and providing an effective date. The Public Utilities Board recommends approval (6-0).

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

- C. [ID 24-1421](#) Consider approval of a resolution of the City of Denton appointing a member to the Economic Development Partnership Board and the Tax Increment Reinvestment Zone Number Two Board; and providing an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Proposed Resolution](#)
 [Exhibit 3 - Presentation](#)

- D. [ID 24-1511](#) Consider approval of a resolution of the City of Denton appointing members to the Community Partnership Committee; and providing an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet - council member appointments.pdf](#)
 [Exhibit 2 - Proposed Resolution](#)
 [Exhibit 3 - Presentation](#)

- E. [ID 24-1508](#) Consider approval of a resolution of the City of Denton appointing a member to the Tax Increment Reinvestment Zone Number One Board; and providing an effective date.

Attachments: [Exhibit 1 - Agenda Information Sheet](#)
 [Exhibit 2 - Proposed Resolution](#)
 [Exhibit 3 - Presentation](#)

7. CONCLUDING ITEMS

A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council 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.

B. Possible Continuation of Closed Meeting topics, above posted.

C E R T I F I C A T E

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 August 2, 2024, in advance of the 72-hour posting deadline, as applicable, and in accordance with Chapter 551 of the Texas Government Code.

OFFICE OF THE 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.



City of Denton

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

Legislation Text

File #: ID 24-475, **Version:** 1

AGENDA CAPTION

Meeting Questions, Responses & Handouts



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

[Meeting Questions, Responses & Handouts](#)

BACKGROUND

City Councilmembers direct questions related to items on the agenda to City staff. The questions are assigned to applicable departments and corresponding responses are compiled to a Question & Answer Report (Q&A) which is placed in a file directory for the applicable meeting. Selecting the link above will gain access to the final version of the Q&A for this meeting, which will be available prior to the start of the meeting.

Periodically during a meeting, handouts are distributed to members of the City Council. Any information distributed at this meeting will also be added to the directory by 12:00 p.m. on the business day following the meeting.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 24-249, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding Audit Project 040 - Vendor Management.
[Estimated Presentation/Discussion Time: 30 minutes]



AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: August 6, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding Audit Project 040 – Vendor Management.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

BACKGROUND

City of Denton Charter Article VI, Section 6.04 states, the City Internal Auditor is responsible for providing an independent appraisal of City operations as directed that the City's vendors are managed efficiently, effectively, equitably, and in compliance with applicable regulations throughout the procurement lifecycle by the City Council. These audits are conducted in accordance with *Generally Accepted Government Auditing Standards* promulgated by the US Government Accountability Office.

Per *Government Auditing Standards*, internal auditors should make audit reports available to the public and should communicate results to the parties who can ensure that the results are given due consideration. In order to meet these *Government Auditing Standards*, the City of Denton's Internal Audit Procedures Manual requires finalized audit reports to be presented to the City Council. Once presented, all published reports can be found on the City of Denton's [Internal Audit Webpage](#).

DISCUSSION

This audit project is intended to provide assurance that the City's vendors are managed efficiently, effectively, equitably, and in compliance with applicable regulations throughout the procurement lifecycle. Between Fiscal Years 2022 and 2023, the City authorized the expenditure of about \$965 million through vendor contracts.. Initial, detailed findings from this audit project are presented in the attached Audit of Franchise Fee Collections report.

RECOMMENDATION

Staff recommends closing Audit Project 040 – Vendor Management until a follow-up review is conducted to assess the implementation of the 14 issued recommendations. This follow-up review will likely take place in Fiscal Year 2027-28 once the City's new enterprise resource management software is implemented.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Sep. 19, 2023: Fiscal Year 2023-24 Annual Internal Audit Plan Adopted

EXHIBITS

1. Agenda Information Sheet
2. Audit of Vendor Management
3. Presentation

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



Audit of Vendor Management

The City's vendor procurement and contracting processes adequately reduce risk; though enhanced due diligence processes could be standardized. Additional monitoring and reporting of historically underutilized business procurement utilization could further actualize the City's inclusive contracting goals.

Resources to guide staff managing contracts are limited. Contracts are generally clear, though opportunities to include more specific requirements exist. While purchase orders are appropriately approved, reliance on lump sums weakens the three-way match control, seemingly delaying prompt vendor payment.

Access to vendor information has not been appropriately restricted and updates are not regularly reviewed.

Audit Team

City Auditor

Madison Rorschach, CIA, CGAP

Audit Staff

Amber Jackson, MBA, CFE

Mutukwa Mukatimui

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Audit at a Glance

Why we did this Audit:

During Fiscal Years 2022 and 2023, the City authorized the expenditure of about \$965 million through vendor contracts. Managing these vendor relationships and their associated contracts is critical to ensuring that the City can continue to serve its residents. This audit was included in the City's Fiscal Year 2024-25 Annual Audit Plan as approved by the City Council.

What we Recommend:

Recommendations 1 & 2

Standardize enhanced due diligence processes – especially for cybersecurity risk.

Recommendations 3 & 4

Increase HUB utilization transparency through additional tracking and reporting.

Recommendations 5 & 11

Review solicitation and payment timeliness expectations.

Recommendations 6, 7, & 8

Increase available contract management resources.

Recommendations 9 & 10

Strengthen the three-way match control and require change order approvals.

Recommendations 12, 13, & 14

Correct vendor information management access issues and review record updates.

What we Found:

This audit generally evaluated the City's vendor management processes including vendor due diligence, contract management, vendor information administration. Audit findings are summarized below:

Vendor Due Diligence. Solicitations comply with procurement regulations and contract risk reduction processes are generally comprehensive and consistent. Adequate basic vendor due diligence is performed for most vendors. Enhanced due diligence processes could be standardized, including for cybersecurity risk. Additional monitoring and reporting of HUB procurement utilization could further actualize the City's inclusive contracting goals. Solicitations generally take longer than expected.

Contract Management. Resources to guide staff managing contracts are limited. Contracts generally clearly outline price and performance requirements; opportunities to include more specific requirements exist.

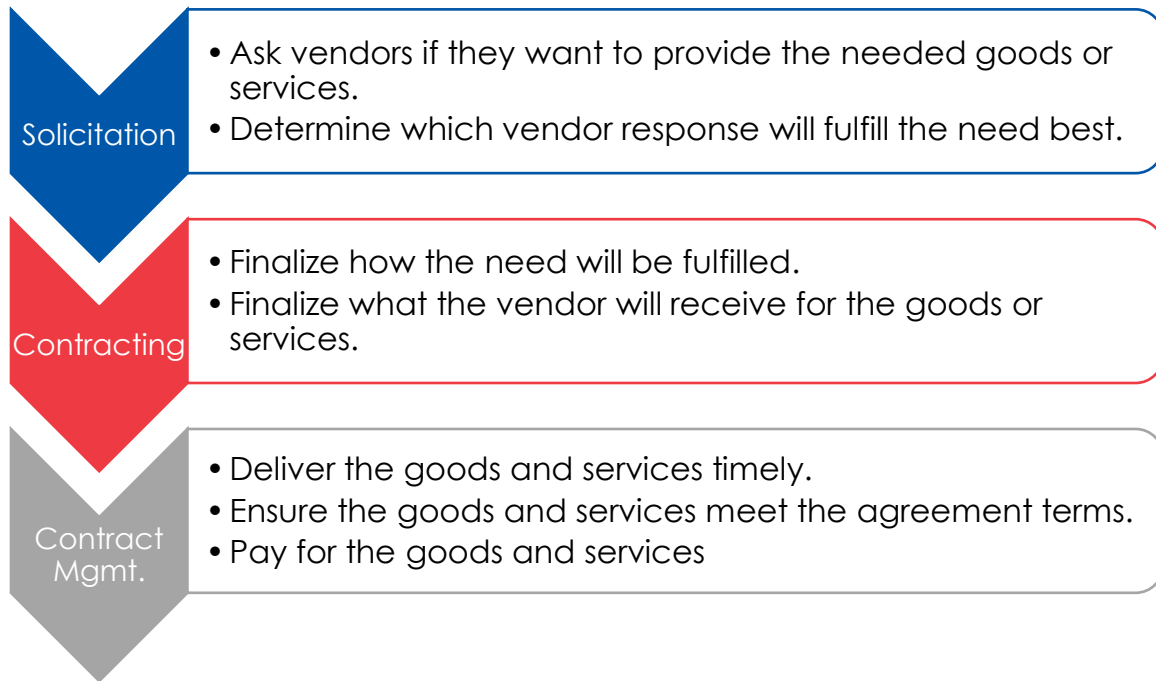
Purchase orders are appropriately approved but change orders do not require documented approval. Many purchase orders use a lump sum format weakening the three-way match control. Recent changes have improved payment promptness; late payments are generally due to department delays entering receiving documentation.

Vendor Information Administration. Access to update vendor master information has not been appropriately limited. Most complete vendor records were accurate, but processes to ensure record updates are accurate and appropriate do not exist.

Detailed Findings & Analysis

Like most organizations, the City of Denton purchases goods and services from vendors to accomplish its objectives. Vendor management is the process of ensuring that vendors deliver these goods and services as agreed upon. Once a need is identified, the vendor management process generally involves the following steps:

Figure 1: Vendor Management Process



Vendor management is primarily a department's responsibility as they are responsible for identifying their needs, determining how to meet those needs, and then ensuring those needs are met. Throughout this process, the City's Procurement Department provides guidance and tools to accomplish these goals, promote consistency, and help meet regulatory requirements.

This audit generally evaluated the City's vendor management processes including vendor due diligence, contract management, and vendor information administration.

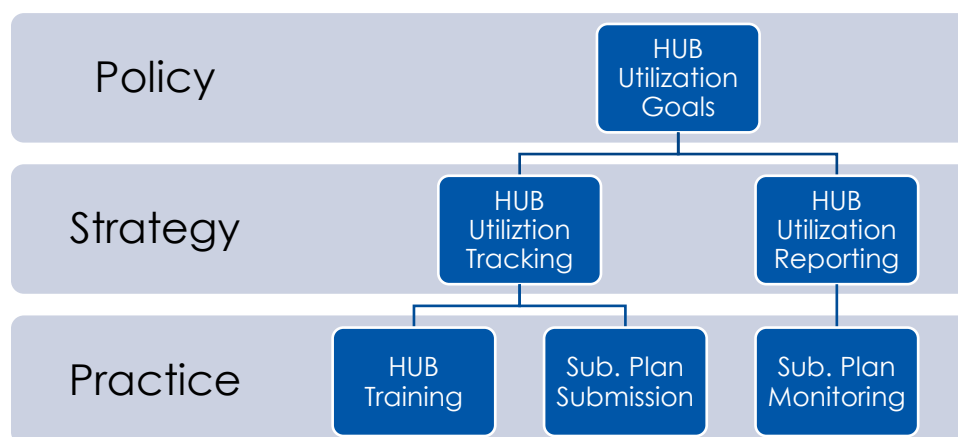
Solicitation Processes are Appropriate, but Delayed by Departments; Contract Due Diligence Could be Enhanced

Once a need is identified, an organization must go through a solicit process to purchase goods and services. These solicitations are regulated by Texas state law to increase competition while also ensuring quality. There are generally four critical steps in a solicitation process as follows:

1. Request a solicitation – the purchase of goods and services should be approved, budgeted, and in alignment with regulatory requirements.
2. Draft a scope of work – the goods or services being requested including any quality or performance requirements should be clearly outlined.
3. Evaluate vendor submissions – best practices suggest that at minimum, due diligence processes should involve verifying a vendor's identity and legitimacy, ensuring they are properly licensed and insured, and evaluating probable performance. In addition, enhanced due diligence checks, such as assessing cybersecurity risk, are recommended for vendors performing higher-risk work.
4. Draft, review, and execute a contract – contracts should be drafted to ensure that procured goods or services meet the City's quality and performance requirements as much as possible.

In addition, the City adopted its Commitment to Inclusion policy in April 2023. Best practices suggest that an inclusive contracting program generally include the following elements:

Figure 2: Inclusive Contract Program Elements¹



¹ A historically underutilized business – or HUB – is a designation granted by the Texas Comptroller to increase the opportunities available to “businesses owned by minorities and women.”

What We Found

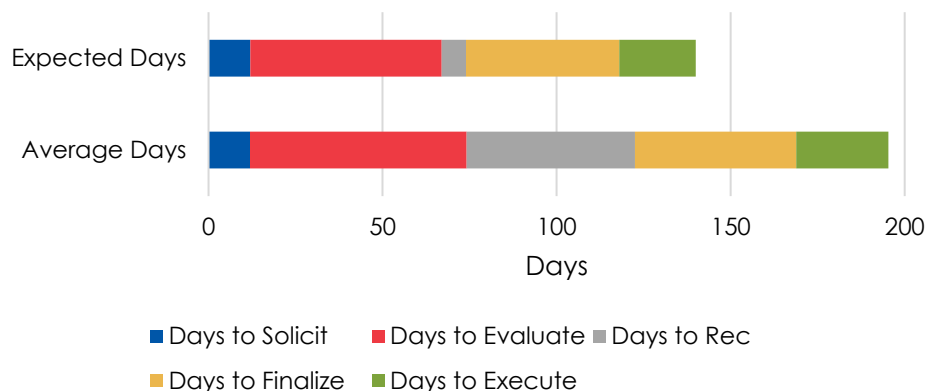
- Solicitation processes comply with procurement regulations and are generally clear to Department staff, except for their involvement in the contracting process.
 - The Procurement Department has created a comprehensive Procurement Manual that aligns with procurement regulations and has implemented a standard process to review solicitation packages for completeness, authorization, and regulatory compliance before vendors submit bids.
 - The Procurement Department has created numerous guides and tools to help City employees navigate the solicitation process, including requesting a solicitation, drafting a scope of work, and evaluating vendor submissions. Guidance on contract drafting and execution has been developed for Procurement staff.
 - While survey responses indicated some found it difficult to find the solicitation resources relevant to them, employees involved in the solicitation process indicated that they were generally clear on their roles when requesting a solicitation, drafting a scope of work, and evaluating vendor submissions. However, they indicated some confusion on their role in drafting, reviewing, and executing contracts.
- The City performs adequate basic vendor due diligence for most vendors. Standardized enhanced due diligence processes, including for cybersecurity risk, do not currently exist.
 - Due to Texas state law, the City is required to formally evaluate a vendor's probable performance directly for almost 60 percent of its contracts. For every solicitation, Procurement requires vendors to submit basic information such as name, address, and the products and services provided. In addition, information on previous litigation, contract completion, safety information, and professional references is requested.
 - Departments may also request additional information based on the drafted performance requirements, however, there is no written guidance for departments on what due diligence may be prudent.
- Contracting processes to reduce risk are generally comprehensive and consistently followed.
 - Based on a review of 28 high-risk contracts, all generally included provisions and clauses recommended by the City Attorney's Office to reduce legal risk such as having clear termination and renewal

- procedures, agreeing to indemnify the City, and outlining what happens if the agreement cannot be fulfilled as promised.
- Based on a review of 28 high-risk contracts, all but one reviewed contract had a completed conflict of interest questionnaire as part of their solicitation submission.
 - Based on a review of 28 high-risk contracts, all but one vendor that required insurance had a certificate of insurance on file. Five certificates of insurance on file had expired.
 - According to Procurement staff, the City's record retention system does not have a way to send reminders to vendors or City staff when a certificate of insurance is nearing expiration. Instead, Procurement verifies that certificates of insurance are valid before issuing new purchase orders or amending existing contracts.
- Procurement has begun tracking historically underutilized business – or HUB – procurement utilization. Additional monitoring and reporting could further actualize the City's inclusive contracting goals.
 - The City does not have any formal HUB utilization goals. The Procurement Department has developed a process to track HUB utilization and estimates that about five percent of City contracts are awarded to HUB vendors.
 - Current tracking efforts only indicate if a vendor is a certified HUB and do not include any additional detail such as race or gender.
 - Procurement provides adequate guidance to department staff on complying with the State's HUB requirements for purchases between \$3,000 and \$50,000.
 - The City does not require vendors to submit any subcontractor information once a contract is awarded.
 - There are currently no clear requirements or practices to report HUB vendor procurement utilization to the City Council or the public.
 - Solicitations generally take longer than expected due to issues outside the Procurement Department's control.
 - The Procurement Department has created timeliness expectations for solicitation processing based on the actual time it took for Procurement to process solicitations historically.
 - High-risk contracts executed in fiscal years 2022 and 2023 generally took about five and a half months to execute – about one month

longer than expected. This appeared to be due to department delays in finalizing vendor selection as shown in Figure 3.

- According to Procurement staff, departments must submit an agenda information sheet to finalize vendor selection; the contracting process will not begin until this information is received. This expectation is communicated in the available resources.

Figure 3: Solicitation Promptness Comparison



- Contract manager survey responses suggest that requesting a solicitation, drafting a scope of work, and evaluating bids generally occur promptly; however, the contracting process could be faster. Survey responses attributed these delays to the contract approval process.
- Once a vendor signs a contract (i.e., it is finalized), the execution process consistently takes about four weeks to complete and is driven by Council agenda deadlines. Still, this process was completed within the expected timeline for only a third of reviewed high-risk contracts, indicating the expectation may be too short.

Why It Matters

The City's centralized, well-documented solicitation process helps ensure regulatory requirements are met. Further, it is important to ensure that vendors are reputable and able to meet performance requirements before purchasing goods and services. For these reasons, vendor due diligence is a critical step in the solicitation process. While the City has generally established basic due diligence processes, some vendors may present more risk, especially if they provide software systems or handle sensitive information. Establishing enhanced due diligence procedures for these higher-risk vendors would further reduce the risk that the City's services may be impacted.

In addition, while the City has begun tracking HUB vendor procurement utilization additional eligibility details and public reporting would further actualize the City's commitment to inclusion by increasing transparency. Additionally, gathering subcontractor information would not only assist with understanding HUB vendor procurement utilization in more detail but could also be used to understand better who the City is paying and to evaluate bids for misappropriation.

Lastly, the City must be able to make purchases promptly to avoid impacting service quality and delivery. Due to regulatory requirements, large government solicitations must go through a formal evaluation process. For this reason, expected timelines must be communicated clearly to departments so they can adequately plan.

Recommendations:

1. Consider designing a contract risk assessment checklist or system to guide department staff on performing due diligence, including enhanced procedures as appropriate.

Procurement Department Comments: *Staff will research best practices and develop checklist/guide.*

2. Create guidance for assessing vendor cybersecurity risk when appropriate as part of the due diligence process. Consider requiring critical information technology vendors to submit their most recent Systems and Organizations Controls – or SOC – report as part of the due diligence process.

Procurement Department Comments: *Staff will work with Technology Services to develop/address process.*

3. Create a process for collecting subcontractor information including deciding at what value and for what types of contracts this information should be required.

Procurement Department Comments: *Staff will work with internal departments to develop checklist/guide.*

4. Increase historically underutilized business procurement utilization transparency by collecting additional eligibility details and publicly reporting on the City's contract awards and payments to historically underutilized businesses at least annually.

Procurement Department Comments: *Staff will research best practice and adhere to State of Texas procurement and contract management guide.*

5. Consider updating solicitation timeliness expectations to include more time for vendor selection and contract execution.

Finance Department Comments: Staff will evaluate timeline.

Contract Management Resources are Limited; Reliance on Lump Sum Purchase Orders may be Impacting Vendor Management

Once an agreement is reached, the vendor and the City are both responsible for fulfilling their promises as laid out in the contract. In general, these promises include: 1) delivering goods or services within a set time, 2) meeting the quality standards in the agreement, and 3) paying for the goods or services at the agreed-upon rate. To ensure that the vendor meets these obligations, the Office of Federal Procurement Policy suggests an organization have a strong contract management program, including:

- Clearly defined duties, tasks, and authority for individuals involved in the contract management process.
- Mandatory, risk-based contract management training including periodic refreshers.
- Contract administration plans specifying critical performance outputs and the quality assurance methodology used to verify each.

Similarly, best practices suggest organizations should establish controls over payments to ensure that a purchase is authorized, received, and billed accurately before a payment is made using the three-way match concept. This concept relies on individuals separately verifying that what was ordered was received and billed accurately using different documents as outlined in Table 1.

Table 1: Three-Way Match Control Summary

Document Type	Quantities	Price
Purchase Order	Included	Included
Receiving Document	Included	
Invoice		Included

Finally, late payments may negatively impact vendor relationships, making it more difficult to purchase goods or services in the future. Best practices suggest accounts payable leadership develop strong monitoring controls such as performance measures to avoid this issue and minimize late fees and second invoices, which increase the risk of duplicate payments. Invoices held for payment due to discrepancies should be tracked and monitored to help ensure they are corrected timely.

What We Found

- Resources to guide City staff with managing contracts are generally limited.
 - Resources for initiating contract payments have been created. During the audit, the Procurement Department began providing a contract administration plan tool and encouraging departments to hold kick-off meetings with vendors.
 - Contract management training has been developed and was held once in 2022; additional periodic training has not occurred due to unclear responsibilities.
 - Employees indicated that there are adequate resources for managing the quality and timeliness of contract deliverables, though there seems to be potential improvement in relationship management and billing accuracy. Free responses indicated it may be difficult to access and understand contract requirements, especially if changes are made, and that they were uncertain what tools were available to hold vendors to contractual requirements.
- Contracts generally clearly outline price and performance requirements; however, opportunities to include more specific requirements exist.
 - Based on a review of 28 high-risk contracts, most included clear pricing information or specified that pricing would be quoted per project.
 - Performance requirements were based on the draft scope of work and incorporated through reference. Most performance requirements did not include specific performance metrics or guarantees such as milestones, timelines, or quality measures. Instead, there was generally a list of services to be performed with the expectation of meeting quality standards or licensing requirements.
- Purchase orders ensure purchases are appropriately approved; however, change orders do not require clearly documented approval.
 - Once a purchase is requested, the City's financial system automatically routes this request to the requestor's supervisor, ensuring that purchases are appropriately approved.
 - Change orders are requested through a workflow system and do not require approval in the financial system. Some departments have created processes to document change order approval separately.
- Current purchase order formatting practices weaken the three-way match control.

- Based on a review of 20 contracts, all invoiced items were on the associated contract and invoices included adequate detail such as specific deliverables or line items.
- Based on a review of 20 contracts, only two of the related purchase orders were set up to detail the specific deliverables or line items outlined in the contract. Instead, most purchase orders were set up as lump sums without details about pricing or quantities ordered.
- The price of most items ordered could be verified with the contract; however, the accuracy of some invoices could not be determined because the contract and invoice pricing structure did not match.
- Recent changes have improved payment promptness; late payments are generally due to department delays entering receiving documentation.
 - The City has not established any payment timeliness goals. Outstanding invoices are generally reviewed every two weeks by Finance management and information is shared with department directors to help with resolution; this monitoring and reporting process has not been formalized.
 - In April 2023, Accounts Payable implemented an invoice automation system. This software has significantly decreased the time it takes to pay an invoice by almost one week. Specifically, this software reduced the time it takes the Accounts Payable Division to process an invoice once a receiver has been entered.
 - Under the current process, almost 84 percent of invoices appear to be paid promptly (i.e., within 30 days of the invoice being issued).
 - Invoices not paid promptly generally appear to be due to delays in staff entering receiving information – specifically, over 80 percent of invoices not paid promptly had receivers entered at least one month after the invoice was issued as shown in Table 2.

Table 2: Receiver Entry Timeliness

	Vouchers	Amount	Paid Promptly
Before Invoice	6	\$70,584.36	5
Within 3 Days	19	\$49,763.61	19
Within 1 Week	17	\$35,117.25	17
Within 1 Month	29	\$2,273,655.93	27
Within 2 Months	11	\$130,241.61	0
Within 3 Months	0	\$0.00	0
More than 3 Months	4	\$4,434.73	2
Not Applicable	6	\$30,899.73	4
Could Not Locate	4	\$764.26	3
All:	96	\$2,595,461.48	77

Why It Matters

The City does not have a formal contract management program. While current contracts generally result in timely and quality goods and services, additional contract management guidance and support would help ensure consistency, further reduce legal and operational risk, and promote positive vendor relationships. Additionally, more specific performance requirements such as timeliness or quality metrics, could help improve contract clarity, making it easier to hold vendors accountable for quality and timeliness expectations; however, these requirements must be consistently monitored and communicated to vendors to be effective.

Furthermore, employees indicated additional resources may be needed to help them ensure vendors are billing accurately. These issues may be due to the reliance on lump sum purchase orders, which hinders the staff's ability to easily verify price. This issue may be causing delays to departments receiving goods and services which is the primary driver for late payments. Including price and line-item quantity or specific deliverable information on purchase orders based on the contract's structure should streamline the receiving process.

Lastly, Finance has established generally effective monitoring processes for late payments; however, formalization of these processes and clear promptness goals would help ensure consistency in the future.

Recommendations:

6. Consider creating a formal contract management program or office to provide centralized training and support resources to staff and assist with monitoring contract performance requirements.

City Manager's Office Comments: *City Manager's Office will explore feasibility and may include options in a future fiscal year budget request.*

7. Provide periodic training and guidance for employees on the contract management process including clarifying responsibilities, outlining how to identify and monitor key deliverables, and explaining vendor accountability tools.

Procurement Department Comments: *Staff will provide in person/pre-recorded training.*

8. Create on-demand training for staff on writing performance requirements. Training should emphasize the importance of specific performance requirements (i.e., scopes of work) and the use of specific, measurable requirements to improve vendor accountability mechanisms.

Procurement Department Comments: Staff will provide in person/pre-recorded training.

9. Implement a change order approval process.

Procurement Department Comments: Staff will develop an approval process.

10. Format purchase orders to more clearly align with contract deliverables and line items.

Procurement Department Comments: Staff will evaluate and ensure purchase orders align with contract line items and deliverables.

11. Formalize the payment timeliness monitoring and develop and periodically report on invoice payment timeliness goals.

Finance Department Comments: Staff will develop timeliness goals.

Vendor Master Records Generally Accurate; Information Security Control Issues Increase Risk of Misuse

A vendor must be set up in the City's financial system to issue a payment. It is critical that vendor information in this system be accurate and authorized to ensure that no inappropriate payments are made. To do this, best practices suggest that individuals should not have the ability to do more than one of the following:

- Create and change vendor information (i.e., vendor master file management);
- Issue purchase orders; and
- Enter and process payments in the accounts payable system.

In addition, Form 1099s must be issued to any entities that receive more than \$600 in non-employment income from the City apart from corporations. In general, best practices suggest that vendors be classified when they are created to ensure that they receive these forms as required.

What We Found

- Access to update vendor master information has not been appropriately limited.
 - The City has established security roles within its financial system to limit user access to certain functions. According to staff, employees

- responsible for updating vendor information are placed in the PURCHASST group.
- Based on a review, the PURCHASST group allows individuals to create and change vendor information as well as issue and change purchase orders. Further, four employees who were primarily responsible for procuring goods were included in this security group.
 - Processes to ensure updates made to vendor master information are accurate and appropriate generally do not exist.
 - Procurement has created standard operating procedures to document how to update vendor information including what information should be included in a vendor record.
 - According to Procurement staff, updates made to vendor information are generally carried out by one staff member and are not periodically reviewed. Procurement has created a process to request vendor information changes through a workflow system; however, they stated that all changes may not be documented in this system.
 - Based on a review of a statistical sample of vendor records, the tax ID for almost 78 percent could be verified based on submitted W-9s. For about 10 percent of the records reviewed, the vendor master database did not include any tax ID information and no other record existed. For the other 12 percent of records, the tax ID either appeared to be inaccurate or could not be verified because a W-9 could not be found as shown in Table 3.

Table 3: Vendor Master Tax ID Accuracy

Result	Records	Percent
Verified	246	77.8%
Blank	32	10.1%
Could Not Locate	22	7.0%
Wrong	16	5.1%
All:	316	100.0%

- The current financial system cannot comprehensively log changes made to vendor information. Instead, the last change made to a record is documented including when and by whom the change was made.
- Based on a review of this record-specific change information, there is evidence that Accounts Payable staff can change vendor information, including banking information.
- Processes to code vendor Form 1099s are not appropriate.

- According to staff, the Accounts Payable Supervisor is responsible for updating vendor tax classification codes to ensure Form 1099s are issued appropriately. Based on the structure of the City's current financial system, this responsibility requires the Accounts Payable Supervisor to be able to update vendor information.
- Written guidance on categorizing vendors to ensure they receive the correct Form 1099, if applicable, has not been created.
- Based on a review of a statistical sample of vendor records, about 75 percent appeared to have the correct Form 1099 status coded. About 12 percent seemed inaccurate and the remaining 13 percent could not be verified because a W-9 could not be found, or the tax classification information on the W-9 was blank.

Why It Matters

Management of vendor information is critical to ensuring that issued payments are appropriate. For this reason, access to update vendor information should be restricted to only those necessary and reviewed periodically to ensure that records are accurate and appropriate.

Further, requiring the Accounts Payable Supervisor to update Form 1099 information necessitates that they can update vendor information based on the City's current system. Allowing individuals who process payments to update vendor information increases the risk of fraud as they could create a vendor and make payments to themselves with little oversight.

Recommendations:

- 12.** Create a separate security role for employees who can update vendor information to ensure staff who can create and change vendor information are not able to issue purchase orders.

Procurement Department Comments: Staff will work with Technology Services to ensure employees have appropriate roles.

- 13.** Periodically review recently created and changed vendor records to ensure they are accurate and appropriate.

Procurement Department Comments: Staff will review monthly.

- 14.** Categorize vendor Form 1099 status when creating the vendor and create guidance for staff on how to determine Form 1099 status. Ensure the AP Supervisor's ability to change vendor master information is removed.

Procurement Department Comments: Staff will develop process for 1099.

Audit Project Background

The City Auditor's Office is responsible for providing: (a) an independent appraisal² of City operations to ensure policies and procedures are in place and complied with, inclusive of purchasing and contracting; (b) information that is accurate and reliable; (c) assurance that assets are properly recorded and safeguarded; (d) assurance that risks are identified and minimized; and (e) assurance that resources are used economically and efficiently and that the City's objectives are being achieved.

Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Management Responsibility

City management is responsible for ensuring that resources are managed properly and used in compliance with laws and regulations; programs are achieving their objectives; and services are being provided efficiently, effectively, and economically.

Objectives, Scope, and Methodology

The City Auditor's Office has completed a performance audit of the City's vendor management processes. This report is intended to provide assurance that the City's vendors are managed efficiently, effectively, equitably, and in compliance with applicable regulations throughout the procurement lifecycle.

Audit fieldwork was conducted during May, June, and July 2024. The scope of the review varied depending on the procedure being performed. The following list summarizes major procedures performed during this time:

- Reviewed documentation to develop criteria including documented policies and procedures, industry standards, and best practices;
- Developed process narratives to identify current control activities in procurement and vendor payment processes including the solicitation process, purchase order issuance, and vendor information management;

² The City of Denton City Auditor's Office is considered structurally independent as defined by generally accepted government auditing standard 3.56.

- Interviewed Procurement and Finance, Department staff;
- Survey employees involved in the procurement and contract management processes to understand employee feelings of role clarity, process promptness, and resource availability;
- Evaluate solicitation appropriateness, due diligence consistency, risk reduction activity consistency, solicitation promptness, and contract term clarity and appropriateness based on a judgement sample of 28 high-risk contracts;
- Compare the City's inclusive contracting activities to best practices;
- Evaluate three-way match control effectiveness and purchase order and change order promptness based on a judgement sample of 20 contracts;
- Calculate key payment promptness metrics and analyze the impact of the implementation of the new invoice automation software;
- Evaluate vendor information security controls including access and change monitoring; and
- Review a statistical sample of active vendor master records to verify record completeness and accuracy.

Appendix A: Management Response Summary

The following summarizes the recommendations issued throughout this report. The auditors found that staff and the Departments were receptive and willing to make improvements where needed. Management has provided their response to each recommendation.

1	<i>Consider designing a contract risk assessment checklist or system to guide department staff on performing due diligence, including enhanced procedures as appropriate.</i>	Agree
Responsibility:	Purchasing Manager	Expected Completion: 2025, 4th Quarter
2	<i>Create guidance for assessing vendor cybersecurity risk when appropriate as part of the due diligence process.</i>	Agree
Responsibility:	Purchasing Manager	Expected Completion: 2025, 4th Quarter
3	<i>Create a process for collecting subcontractor information including deciding at what value and for what types of contracts this information should be required.</i>	Agree
Responsibility:	Purchasing Manager	Expected Completion: 2025, 4th Quarter
4	<i>Increase historically underutilized business procurement utilization transparency by collecting additional eligibility details and publicly reporting on the City's contract awards and payments to historically underutilized businesses at least annually.</i>	Partially Agree
Responsibility:	Purchasing Manager	Expected Completion: 2025, 4th Quarter
5	<i>Consider updating solicitation timeliness expectations to include more time for vendor selection and contract execution.</i>	Agree
Responsibility:	Purchasing Manager	Expected Completion: 2025, 3rd Quarter
6	<i>Consider creating a formal contract management program or office to provide centralized training and support resources to staff and assist with monitoring contract performance requirements.</i>	Partially Agree
Responsibility:	City Manager's Office	Expected Completion: 2025, 4th Quarter
7	<i>Provide periodic training and guidance for employees on the contract management process including</i>	Agree

<i>clarifying responsibilities, outlining how to identify and monitor key deliverables, and explaining vendor accountability tools.</i>			
Responsibility:	Purchasing Manager	Expected Completion:	2025, 2nd Quarter
8	<i>Create on-demand training for staff on writing performance requirements.</i>		Agree
Responsibility:	Purchasing Manager	Expected Completion:	2025, 3rd Quarter
9	<i>Implement a change order approval process.</i>		Agree
Responsibility:	Purchasing Manager	Expected Completion:	2025, 2nd Quarter
10	<i>Format purchase orders to more clearly align with contract deliverables and line items.</i>		Agree
Responsibility:	Purchasing Manager	Expected Completion:	2025, 2nd Quarter
11	<i>Formalize the payment timeliness monitoring and develop and periodically report on invoice payment timeliness goals.</i>		Agree
Responsibility:	Accounts Payable Supervisor	Expected Completion:	2025, 1st Quarter
12	<i>Create a separate security role for employees who can update vendor information to ensure staff who can create and change vendor information are not able to issue purchase orders.</i>		Agree
Responsibility:	Purchasing Manager	Expected Completion:	2024, 4th Quarter
13	<i>Periodically review recently created and changed vendor records to ensure they are accurate and appropriate.</i>		Agree
Responsibility:	Procurement Administrator	Expected Completion:	2024, 4th Quarter
14	<i>Categorize vendor Form 1099 status when creating the vendor and create guidance for staff on how to determine Form 1099 status.</i>		Agree
Responsibility:	Procurement Administrator	Expected Completion:	2025, 1st Quarter

Appendix B: Contract Manager Survey Results

The following summarizes the results of the survey issued to employees involved in the procurement and contract management processes. The survey was directly sent to 231 employees, though others had the opportunity to respond, and had about a 25 percent response rate.

Figure X: Procurement Process Role Clarity Survey Results

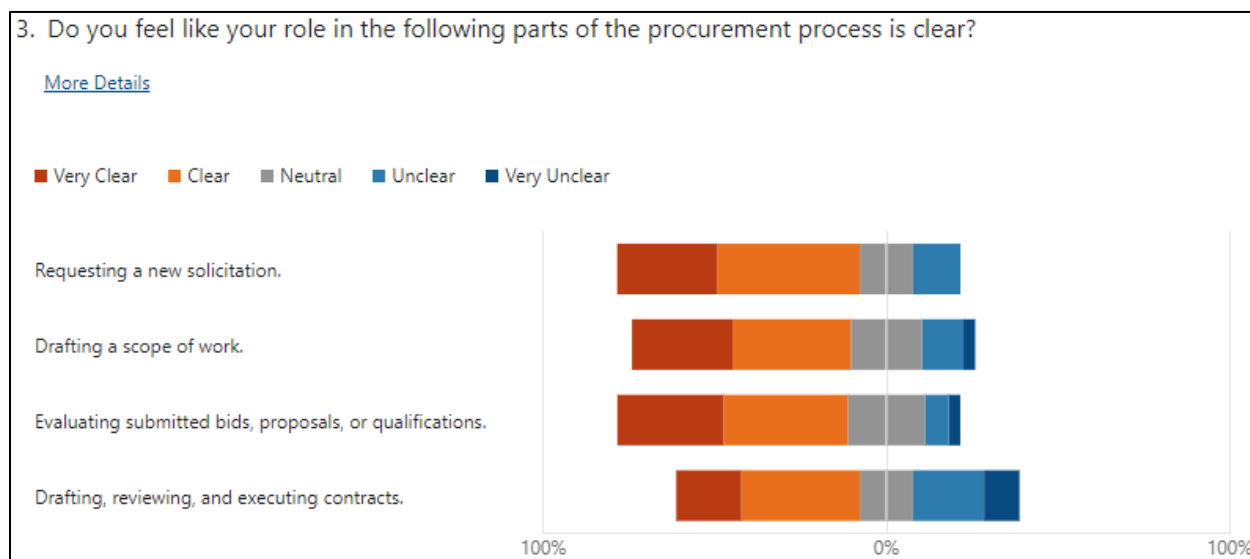


Figure X: Procurement Process Promptness Survey Results

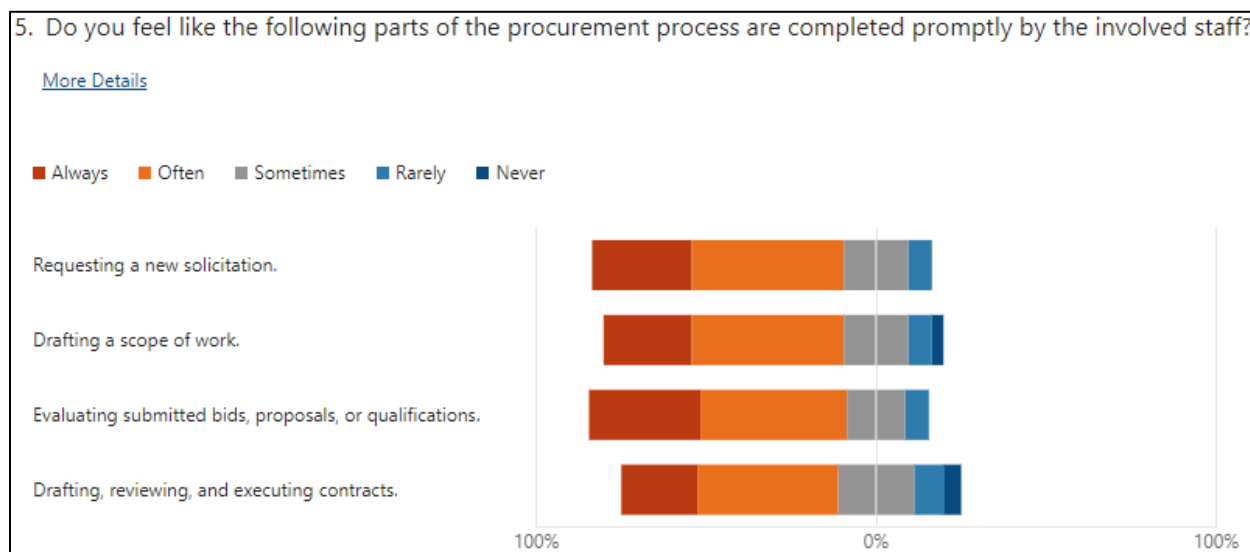
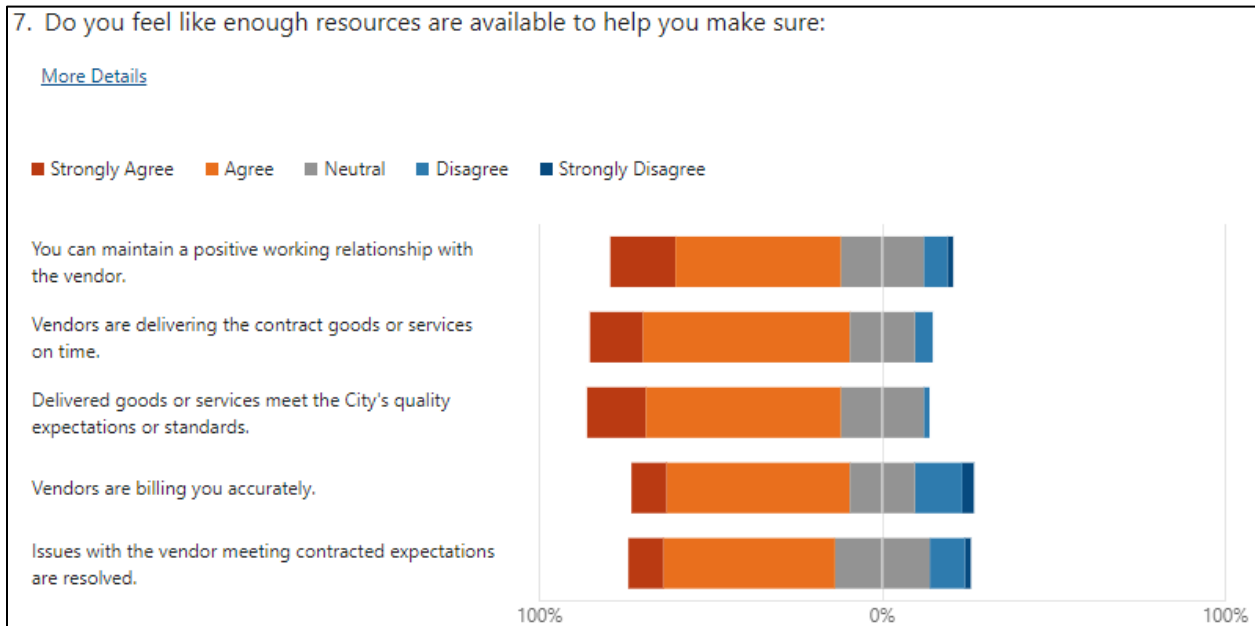


Figure X: Contract Management Resource Availability Survey Results





Audit of Vendor Management

Madison Rorschach
City Auditor
City Auditor's Office
August 6, 2024

Purpose of the Audit

- Audit evaluated the City's vendor management processes including vendor due diligence, contract management, and vendor information administration.
- During Fiscal Years 2022 and 2023, the City authorized the expenditure of about \$965 million through vendor contracts.

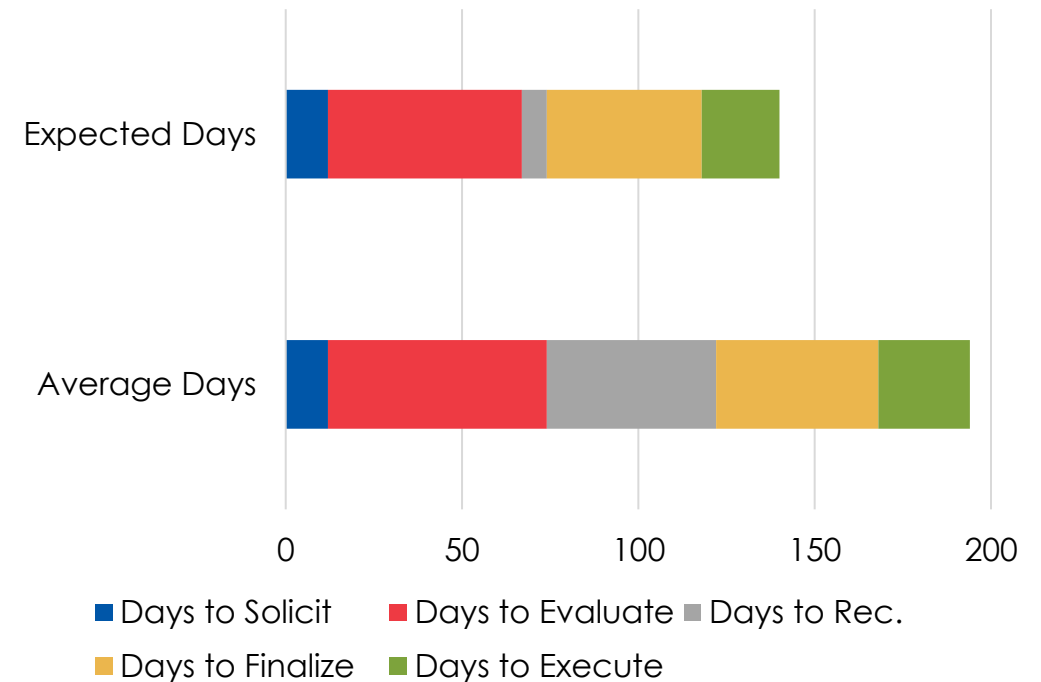
Vendor Management Process



Solicitation Processes Appropriate, but Delayed by Departments; Contract Due Diligence Could be Enhanced

- Solicitations comply with procurement regs.; contract risk reduction processes are generally comprehensive & consistent.
- Adequate basic vendor due diligence is performed for most vendors.
 - Enhanced due diligence processes could be standardized – especially for cybersecurity.
- HUB procurement utilization tracking has begun.
 - Transparency could be improved by tracking additional details and reporting publicly.
- Solicitations generally take longer than expected due to dept. delays.

Solicitation Promptness Comparison



ID 24-249

3

Contract Mgmt. Resources Limited; Reliance on Lump Sum POs may be Impacting Vendor Mgmt.

- Contract management resources are limited.
- Inconsistencies between contract, PO, and invoice structure may be impacting contract mgmt. effectiveness.
 - Contracts generally clearly outline price & performance requirements; opportunities for more specific requirements exist.
 - Many POs use a lump sum format weakening three-way match control.
 - The accuracy of some invoices could not be verified because the pricing structure didn't match the contract.
 - New AP automation system improved payment promptness; most delays due to staff not entering receivers.
 - POs are appropriately approved; change orders don't require approval.



ID 24-249

Three-Way Match Control Summary

Document Type	Quantities	Price
Purchase Order	Included	Included
Receiving Doc.	Included	
Invoice		Included

4

Vendor Master Records Generally Accurate; Info. Security Control Issues Increase Risk of Misuse

- Access to update vendor master information has not been appropriately limited.
 - Security role allows vendor info. updates & PO issuance.
 - AP Super. can update vendor info. due to Form 1099 responsibilities.
- Most complete vendor records were accurate.
 - There are no processes to ensure record updates are accurate and appropriate.

Vendor Master Tax ID Accuracy

Result	Records	Percent
Verified	246	77.8%
Blank	32	10.1%
Could Not Locate	22	7.0%
Wrong	16	5.1%
All:	316	100.0%



Management Response Summary

Rec.	Recommendations*	Response	Implementation Actions*
1	Consider designing contract risk assessment guidance.	Agree	Will research best practices & develop checklist/guide.
2	Create guidance for assessing vendor cybersecurity risk.	Agree	Will work with Tech Services to develop process.
3	Create a process for collecting subcontractor information.	Agree	Will work with internal departments to develop checklist/guide.
4	Increase HUB procurement utilization transparency.	Partially Agree	Will research best practice & adhere to State procurement & contract guide.
5	Consider updating solicitation timelines expectations.	Agree	Will evaluate timeline.
6	Consider creating a formal contract management program or office.	Partially Agree	Will explore feasibility and may include options in a future fiscal year budget request.
7	Provide periodic contract management training and guidance.	Agree	Will provide in person/pre-recorded training.
8	Create on-demand training for staff on writing performance requirements.	Agree	Will provide in person/pre-recorded training.
9	Implement a change order approval process.	Agree	Will develop an approval process.
10	Format purchase orders to more clearly align with contract deliverables.	Agree	Will evaluate and ensure purchase orders align with contract line items & deliverables.
11	Formalize payment timeliness monitoring and reporting.	Agree	Will develop timeliness goals.
12	Create a separate security role for employees who update vendor info.	Agree	Will work with Tech Services to ensure employees have appropriate roles.
13	Periodically review recently created and changed vendor records.	Agree	Will review monthly.
14	Categorize vendor Form 1099 status when creating the vendor.	Agree	Will develop process for 1099.

*Detailed recommendations and implementation actions can be seen in the full audit report.

Questions?

Madison Rorschach

City Auditor

City Auditor's Office



ID 24-249

7



City of Denton

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Legislation Text

File #: ID 24-250, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding Audit Project 023 - Payroll
Administration: Follow-Up Review.

[Estimated Presentation/Discussion Time: 15 minutes]



AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: August 6, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding Audit Project 023 – Payroll Administration: Follow-Up Review.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

BACKGROUND

City of Denton Charter Article VI, Section 6.04 states, the City Internal Auditor is responsible for providing an independent appraisal of City operations as directed by the City Council. These audits are conducted in accordance with *Generally Accepted Government Auditing Standards* promulgated by the US Government Accountability Office.

Per *Government Auditing Standards*, internal auditors should make audit reports available to the public and should communicate results to the parties who can ensure that the results are given due consideration. In order to meet these *Government Auditing Standards*, the City of Denton's Internal Audit Procedures Manual requires finalized audit reports to be presented to the City Council. Once presented, all published reports can be found on the City of Denton's [Internal Audit Webpage](#).

DISCUSSION

This follow-up review is intended to provide a progress update on recommendations from the Audit of Payroll Administration originally issued in September 2021. This audit was intended to evaluate the effectiveness of the City's payroll administration processes.

RECOMMENDATION

Staff recommends Audit Project 023 – Payroll Administration be considered formally complete.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Sep. 28, 2021: Original Audit Presented During Work Session
Sep. 19, 2023: Fiscal Year 2023-24 Annual Internal Audit Plan Adopted

EXHIBITS

1. Agenda Information Sheet
2. Follow-Up Review of the Audit of Payroll Administration
3. Presentation

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



Audit of Payroll Administration

Follow-Up Review

Finance has established a process to ensure payroll payments are processed by two different employees, and documentation of required comments for timecard adjustments appears to have improved with the development of a standard operating procedure. Further, Finance has developed formal procedures to regularly review timecard changes made with administrative access.

Human Resources has established a process to enhance the verification process of employee changes made within the financial system. Additionally, the majority of employee pay rates are currently rounded to two decimal places.

Audit Team

City Auditor

Madison Rorschach, CIA, CGAP

Audit Staff

Amber Jackson, MBA, CFE
Mutukwa Mukatimui

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Follow-Up at a Glance

Why we did this Follow-Up:

This report is intended to provide information on what changes have been made in response to the Audit of Payroll Administration issued in September of 2021. The original audit evaluated the payroll administration processes, including processing payroll updates, employees' timecard adjustments and approvals, overtime payments, tax payments, payroll review and approval procedures, record-keeping, and payments processing. This follow-up review was included on the City's fiscal year 2023-24 Annual Internal Audit Plan as approved by the City Council.

What we Found:

The Human Resources Department has established a process to periodically review and verify the accuracy of employee changes made in the financial system with monthly audits. The majority of employee pay rates are rounded to two decimal points, with additional changes to Civil Service employee pay plans effective January 2025. The Finance Department has developed procedures outlining the requirements of timecard comments, which appear to have improved the documentation and justification of employee timecard adjustments. Additionally, a process has been established to ensure payroll payments are processed and uploaded to the bank by two different employees. Further, a formal process to regularly review audit trails of employees with administrative access in the timekeeping system has been implemented and documented with formal procedures. The status of each recommendation is summarized below:

Recommendation	Mgmt. Response	Status
1. Consider developing a process to periodically verify that employee changes entered into the financial system by Human Resources are accurate based on information received from departments.	Concurred	Implemented
2. Formally require supervisors and timekeepers to comment on any corrections made to employees' timecards in the City's timekeeping system.	Concurred	Implemented
3. Consider rounding employees' pay rates to two decimal places instead of three decimal places to facilitate calculating deductions, contributions, and taxes.	Partially Concurred	Implemented
4. Consider establishing a process for processing payroll payments with the bank involving two employees.	Concurred	Implemented
5. Develop a process for regular review of audit trails of activities performed by the Payroll Specialist in the timekeeping system to ensure the accuracy and appropriateness of entries and adjustments made.	Concurred	Implemented

Recommendation Status Update

This report summarizes the Audit of Payroll Administration recommendations, management responses, and the Internal Audit Department's follow-up findings, which describe to what extent department management has implemented Internal Audit's recommendations since the publication of the original report in September 2021.

Payroll Updates Appropriately Processed

1. **Consider developing a process to periodically verify that employee changes entered into the financial system by Human Resources are accurate based on information received from departments.**

Management Response: Concur

Human Resources Department Comments: To augment the authorization/verification process in place and to decrease the risk of error and fraud, on a quarterly basis, a sample of 10 status sheets from throughout the quarter will be pulled and audited to ensure the proper verifications were conducted at the HR level and the changes were entered accurately in JDE.

Audit Follow-Up Finding: Implemented

The Human Resources Department has established a monthly audit process to review a sample of employee record changes which includes reviewing the employee documentation, verifying changes are accurate in the system, completing an audit summary sheet, and obtaining management review. The Department has developed an outline of this audit procedure and in the process of developing a formal standard operating procedure. Additionally, the Department has trained multiple employees on the process to make employee changes in the financial system to assist with ensuring accuracy.

Employee Time Adequately Approved; Adjustments Not Always Supported

2. **Formally require supervisors and timekeepers to comment on any corrections made to employees' timecards in the City's timekeeping system.**

Management Response: Concur

Finance Department Comments: The Finance Department concurs with this recommendation. Each year, the Payroll Team hosts quarterly payroll trainings that include instructions and requirements for adding comments to employee's timecards. In response to this recommendation, the Finance Department plans to continue the city-wide trainings and

develop a standard operating procedure (SOP) outlining the requirement to add comments when making changes to timecards. It is important to note that department supervisors and managers play an important role in ensuring compliance with this recommendation.

Audit Follow-Up Finding: Implemented

The Finance Department has established a standard operating procedure outlining employee timecard comment requirements, which is available to all City employees on the [City's HUB page](#). According to the Payroll Division, staff do not review all timecard comments but do review high-risk timecards to ensure accuracy and proper justification.

Based on review of a judgement sample of 30 employee timecards from January through June 2024, most either did not require edits or edits were appropriately justified, and only one employee had multiple edits where none were justified. Further, all but two of the reviewed employees did not have any leave that required comment. Of the remaining two one was appropriately explained, and one was not for a total of eight hours of regular pay.

Payroll Processes Generally Effective; Calculations Accurate**3. Consider rounding employees' pay rates to two decimal places instead of three decimal places to facilitate calculating deductions, contributions, and taxes.**

Management Response: Partially Concur

Finance Department Comments: The Finance Department partially concurs with this recommendation. This recommendation will require additional research to ensure employees' salaries are not negatively impacted before implementing. If pay rates are rounded to two decimal points, Finance recommends implementing this change in conjunction with annual pay increases (i.e. cost of living adjustment). Since the cost of living adjustment is already in process for FY 2021-22, Finance and Human Resources Department staff will work together to implement this recommendation in FY 2022-23.

Audit Follow-Up Finding: Implemented

According to the Finance Department, employee pay rates were evaluated as part of the compensation study completed during 2023 which included rounding pay rates to two decimal points.

Based on review of all employees' pay rates as of July 2024, approximately 65 percent appeared to be rounded to two decimal points. Table 1 summarizes these results by general benefit group.

Table 1: Pay Rate Decimal Point Rounding Summary

FLSA Category	Employees	Percent Two Decimal
Full-Time	1,293	69%
Part-Time	592	99%
Civil Service	434	6%
All:	2,319	65%

Additionally, the Civil Service Pay Subcommittee approved new pay plans for the Police and Fire Departments with all pay rates rounded to two decimal points effective January 2025.

Payroll Payments Generally Authorized Appropriately

4. Consider establishing a process for processing payroll payments with the bank involving two employees.

Management Response: Concur

Finance Department Comments: The Finance Department concurs with this recommendation. The Payroll Team currently has two employees verifying the bank file prior to it being uploaded to the bank. However, only one person is allowed to upload the file to the bank. The Finance Department plans to rotate this responsibility moving forward to ensure accuracy. The new process will be outlined in a new standard operating procedure (SOP).

Audit Follow-Up Finding: Implemented

The Finance Department has established a standard operating procedure outlining the payroll payment process. This process includes one Payroll employee generating the payroll payment file and a different employee reviewing and uploading the file to the bank. Additionally, the procedures state the Payroll employee that generated the payroll payment file cannot upload the bank file.

Review of Payroll Staff Activities in Timekeeping System Could Further Mitigate Risks

5. Develop a process for regular review of audit trails of activities performed by the Payroll Specialist in the timekeeping system to ensure the accuracy and appropriateness of entries and adjustments made.

Management Response: Concur

Finance Department Comments: The Finance Department concurs with this recommendation. Currently Payroll Specialists process payroll for specific departments. This process works well, however, staff plans to implement a process to cross-check work and ensure accuracy. The

Finance Department plans to develop a standard operating procedure (SOP) outlining this new procedure. The SOP will be complete during the first quarter of FY 2021-22.

Audit Follow-Up Finding: Implemented

The Finance Department has established a standard operating procedure outlining the process to review the audit trails of Payroll staffs' administrative access on a Comprehensive Audit Report pulled from the timekeeping system at the end of each pay period. This review is conducted by Finance management on a bi-weekly basis when payroll reports are received and includes reviewing the Comprehensive Audit Report, which documents all edits made by Payroll staff to their own timecards with administrative access. Based on Finance management's review, they will ensure all timecard edit explanations are justified and appropriate.

Based on review of the audit trails of three Payroll staff in the timekeeping system from July 2023 to June 2024, two staff audit trails showed no changes made to their timecards with their administrative access, and one staff audit trail showed 27 edits but appeared to be paid appropriately for the pay period based on the changes. According to Payroll staff, these edits were due to staff conducting timecard training with another City department and were justified.

Audit Project Background

The City Auditor's Office is responsible for providing: (a) an independent appraisal¹ of City operations to ensure policies and procedures are in place and complied with, inclusive of purchasing and contracting; (b) information that is accurate and reliable; (c) assurance that assets are properly recorded and safeguarded; (d) assurance that risks are identified and minimized; and (e) assurance that resources are used economically and efficiently and that the City's objectives are being achieved.

Management Responsibility

City management is responsible for ensuring that resources are managed properly and used in compliance with laws and regulations; programs are achieving their objectives; and services are being provided efficiently, effectively, and economically.

Objectives, Scope, and Methodology

This report detailed the findings from a follow-up review of the Audit of Payroll Administration, which evaluated all parts of the City's payroll administration processes to ensure payroll changes are being recorded properly and employees are being accurately paid in accordance with their terms of employment and applicable regulations and City's policies. This report is intended to provide a progress update on recommendations from the [Audit of Payroll Administration](#) originally issued in September 2021.

Audit fieldwork was conducted during June and July 2024. The scope of the review varied depending on the procedure being performed. The following list summarizes major procedures performed during this time:

- Reviewed documentation from the issued audits to develop criteria including industry standards, best practices, policies, and procedures;
- Interviewed City of Denton Finance and Human Resources staff;
- Reviewed new standard operating procedures for timecard comments, processing payroll payments, and reviewing payroll audit trails;
- Reviewed all full-time, part-time, and Civil Service employee pay rates to determine the applied decimal points for rounding pay calculations;
- Reviewed a judgment sample of 30 employee timecards to determine whether timecard edits were properly justified; and

¹ The City of Denton's Internal Audit Department is considered structurally independent as defined by generally accepted government auditing standard 3.56.

- Reviewed audit trails of three Payroll staff to determine whether changes in the timekeeping system made with administrative access were appropriate and justified.

Auditing Standards

We conducted this performance audit follow-up review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



Audit of Payroll Administration: Follow Up Review

Madison Rorschach
City Auditor
City Auditor's Office
August 6, 2024

Purpose of the Follow-Up Review

- Provides a progress update on audit recommendations.
- Audit project evaluated all parts of City's payroll administration processes.
- Review found all needed minor changes were made; original audit found few issues.



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Audit of Payroll
Administration

The City of Denton has established generally effective processes to ensure employees' payroll payments are accurately made. Additional review of adjustments to employees' timecards and Payroll staff activities could further mitigate risk.

Audit Team

City Auditor
Madison Rorschach, CIA, CGAP

Audit Staff
Neeraj Sama, MBA, MS



ID 24-250

Payroll Updates Appropriately Processed; New Verification Process Further Reduces Risk

- Payroll update process allows for appropriate separation of duties and appeared to be effective.
 - Only one HR staff member updated the financial system.
 - Process to verify a sample of these changes has been implemented.

Payroll Update Process

Employees submit changes authorized by dept. mgmt.

HR updates financial system.

Payroll verifies financial system & updates timekeeping system.



ID 24-250

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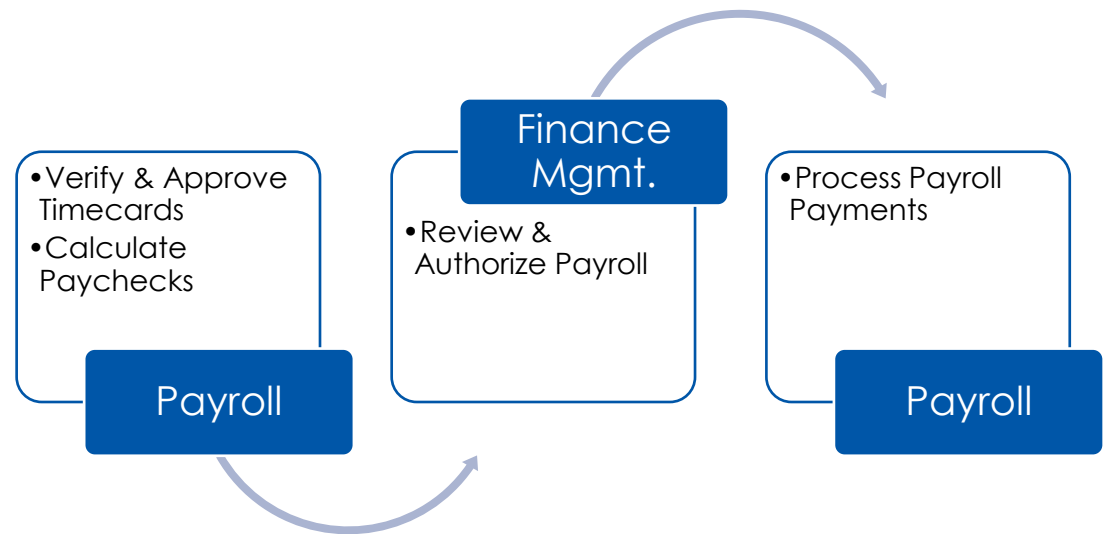
Employee Time Adequately Approved; New SOP Improved Adjustments Justification

- Employee time was almost always adequately approved.
 - Timecard adjustments generally didn't have comments clarifying why they were made.
- New SOP requires comments for certain adjustments.
 - Based on a review of 30 timecards, most didn't require edits or were appropriately justified.

Payroll Process Generally Effective; Regular and Overtime Calculations Accurate

- Payroll verification and calculation process appeared to be effective and accurate.
 - Payrates are being transitioned from three to two decimals to reduce rounding issues.
- Payroll payments were appropriately reviewed and authorized.
 - New SOP formalizing this process.
 - Payroll staff timecard change logs now reviewed every two weeks.

Simplified Payroll Process



Follow-Up Report Summary:

All Recommendations Implemented

Audit Area	Recommendations	Implemented	In Progress	Not Implemented
Payroll Updates	1	100%	0%	0%
Payroll Calculations	1	100%	0%	0%
Payroll Payment	3	100%	0%	0%
	5	100%	0%	0%



ID 24-250

6

*Detailed recommendations and implementation actions can be seen in the full follow-up report.

Questions?

Madison Rorschach

City Auditor

City Auditor's Office



ID 24-250

7



City of Denton

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Legislation Text

File #: ID 24-251, **Version:** 1

AGENDA CAPTION

Receive a report, hold a discussion, and give staff direction regarding Audit Project 032 - Fleet Services Operations: Fuel Management and Fuel Card Administration Follow-Up Review.

[Estimated Presentation/Discussion Time: 15 minutes]



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: August 6, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding Audit Project 032 – Fleet Services Operations: Fuel Management and Fuel Card Administration Follow-Up Review.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Pursue Organizational Excellence and Collaborative and Respectful Leadership.

BACKGROUND

City of Denton Charter Article VI, Section 6.04 states, the City Internal Auditor is responsible for providing an independent appraisal of City operations as directed by the City Council. These audits are conducted in accordance with *Generally Accepted Government Auditing Standards* promulgated by the US Government Accountability Office.

Per *Government Auditing Standards*, internal auditors should make audit reports available to the public and should communicate results to the parties who can ensure that the results are given due consideration. In order to meet these *Government Auditing Standards*, the City of Denton's Internal Audit Procedures Manual requires finalized audit reports to be presented to the City Council. Once presented, all published reports can be found on the City of Denton's [Internal Audit Webpage](#).

DISCUSSION

This follow-up review is intended to provide a progress update on recommendations from the Audit of Fleet Services Operations originally issued in April and June 2023. The meter reading and billing audit was intended to evaluate the effectiveness of the City's bulk fuel inventory and fuel card administration processes.

RECOMMENDATION

Staff recommends Audit Project 032 – Fleet Services Operations be closed until a second follow-up review in 12-24 months.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Apr. 18, 2023:	Original Fuel Management Audit Presented During Work Session
Jun. 6, 2023:	Original Fuel Card Administration Audit Presented During Work Session
Sep. 19, 2023:	Fiscal Year 2023-24 Annual Internal Audit Plan Adopted

EXHIBITS

1. Agenda Information Sheet
2. Follow-Up Review of the Audit of Fleet Services Operations: Fuel Management and Fuel Card Administration
3. Presentation

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor



Audit of Fleet Services Operations

Fuel Management & Fuel Card Administration: Follow-Up Review

In general, Fleet Services is in the process of developing and implementing standard operating procedures to provide improved guidance to staff regarding fueling at both the City's fueling stations and while using fuel credit cards.

In addition, individual department fuel billing information has been improved and a plan has been formalized to build an additional fueling station within the city. Documentation of inventory control and State-required activities should be further improved to help ensure all required activities are completed and recorded appropriately.

Audit Team

City Auditor

Madison Rorschach, CIA, CGAP

Audit Staff

Jenesa Halter, MA, CFE

Mutukwa Mukatimui

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Follow-Up at a Glance

Why we did this Follow-Up:

This report is intended to provide information on what changes have been made in response to the Audit of Fleet Services Operations issued in April and June of 2023. The original audit evaluated the Fleet Services' management and administration of the City's bulk fuel and fuel credit card program. This follow-up review was included on the City's Fiscal Year 2023-2024 Annual Internal Audit Plan as approved by the City Council.

What we Found:

Fleet Services is still in the process of developing and implementing standard operating procedures to provide improved guidance to staff regarding fueling at both the City's fueling stations and while using fuel credit cards. In addition, individual department fuel billing information has been improved and a plan has been formalized to introduce an additional fueling station on the southern perimeter of the City. Documentation of inventory control and State-required activities should be further improved to help ensure all required activities are completed and recorded appropriately. The status of each recommendation is summarized below:

Recommendation		Mgmt. Response	Status
Fuel Management	1. Implement a written fuel ordering process that includes order record retention parameters and emergency order procedures.	Concurred	In Progress
	2. Developing a process to record tank levels just before and just after fuel deliveries to further ensure invoices are accurate.	Concurred	Not Implemented
	3. Document the established acceptable fuel variance and invoice process in a policy or procedure.	Concurred	Implemented
	4. Establish tank charts for all tanks and ensure manual dipping measurements are converted using established tank charts to ensure the fuel monitoring system is accurate.	Concurred	Implemented
	5. Establish a written procedure for granting and removing fuel access including establishing minimum criteria for fuel access, retaining all requests, and requiring complete profile listings including the complete name as listed by Human Resources.	Concurred	In Progress
	6. Periodically review fuel management system users to ensure terminated employees are appropriately removed from the system.	Concurred	Implemented
	7. Implement policies, procedures, or training to help communicate requirements and responsibilities for appropriate use of bulk fuel to fuel users, including the importance of entering accurate odometer readings.	Concurred	In Progress
	8. Provide transaction details to user departments to allow for inappropriate transaction review.	Concurred	Implemented
	9. Establish a written procedure detailing the billing process and error correction process.	Concurred	Implemented
	10. Ensure all tank equipment, especially sensors, are operating and ensure if any issues are found the equipment is repaired promptly.	Concurred	Implemented
	11. Verify what is the best release detection method for the City to implement and if inventory control remains a requirement, begin	Concurred	Not Implemented

Audit report translations may be requested by emailing InternalAudit@CityofDenton.com.

Audit of Fleet Services Operations: Fuel Management & Fuel Card Administration Follow-Up Review

August 2024

	examining inventory records, specifically the difference between fuel tank volume and deliveries and sales, bi-monthly and report all suspected leaks per State requirements		
	12. Develop written policies and procedures for all fuel management activities including manual fuel inventory checks, TCEQ required inspections and records retention.	Concurred	Not Implemented
Fuel Card Administration	1. Document fuel card program purpose, including authorized vehicle types, acceptable fuel products, and approved transaction locations as deemed appropriate by City leadership.	Concurred	In Progress
	2. Create a process to document fuel card issuance requests and approval to ensure alignment with program purpose.	Concurred	In Progress
	3. Develop a long-term plan to increase the number of bulk fuel stations in alignment with expected City growth to allow for long-term fuel savings.	Concurred	Implemented
	4. Implement clear guidance on how fuel cards should be stored and periodically review card usage to evaluate if low or no use cards are still needed.	Concurred	In Progress
	5. Comprehensive vehicle data should be maintained within fuel card profiles including basic identification data such as VIN numbers and vehicle parameters to allow for appropriate technical restrictions to be placed and monitored on the fuel cards.	Concurred	In Progress
	6. Consider eliminating the use of "pool" fuel cards to increase accountability.	Concurred	In Progress
	7. Create a process to document fuel user requests and approval and periodically review users to ensure access is appropriate.	Concurred	In Progress
	8. Implement policies, procedures, or training to help communicate requirements and responsibilities for appropriate fuel card usage.	Concurred	In Progress
	9. Establish a written policy that requires card users to complete usage agreements, submit receipts for approval, and complete monthly transaction reconciliation.	Concurred	In Progress

Recommendation Status Update: Fuel Management

This report summarizes the Audit of Fleet Services Operations: Fuel Management recommendations, management responses, and the City Auditor's Office's follow-up findings, which describe to what extent City management has implemented Internal Audit's recommendations since the publication of the original report in April 2023.

Limitations & Lack of Formal Procedures Hampers Fuel Delivery Oversight

1. **Implement a written fuel ordering process that includes order record retention parameters and emergency order procedure.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation.

Audit Follow-Up Finding: In Progress

Written guidance has been developed to assist in the fuel ordering process however some needed elements of the procedure are absent including record retention requirements and the required minimum gallons that should be ordered. Specifically, staff reported that a minimum of 7,500 gallons of diesel and 8,500 gallons of unleaded must be ordered to ensure no redistributing fee is charged by the vendor.¹ These specific gallon requirements for orders are not listed, which limits the usefulness of the written ordering guidance. Similarly, fuel orders appear to be retained within staff email limiting independent access and review.

Finally, there is no written guidance that details the circumstances in which an emergency order is necessary or appropriate.

2. **Developing a process to record tank levels just before and just after fuel deliveries to further ensure invoices are accurate.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation. In addition, Fleet Services is in the process of recruiting for a Quality Assurance position focusing on the fuel program as the primary function.

Audit Follow-Up Finding: Not Implemented

Staff reported that given the variable delivery times of the fuel vendor, tank levels cannot be recorded just before deliveries. However, an

¹ A redistributing fee occurs when the vendor must transport the remaining fuel in their tanker to another location because there is not enough space in the City's tanks.

inventory increase report is automatically printed by the fuel tracking system shortly after delivery. System specifications state that this report may be delayed by at least four minutes between the end of the delivery and the printing of the report.

Upon review of the system's reports and vendor's bill of lading from a judgmental sample of FY 2023-2024 fuel orders, it was not possible to verify that an inventory report is always produced shortly after delivery largely due to the vendor not always listing the exact delivery 'drop' time. The lack of the exact delivery time limits the ability to ensure invoices are accurate.

Generally, staff appear to be attaching the printed inventory reports and bill of lading to the associated invoices; however, there can be further improvement in ensuring all reports are saved and attached in the appropriate location.

3. Document the established acceptable fuel variance and invoice process in a policy or procedure.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation and ensure any adjustment to the fuel variance aligns with fuel storage regulations.

Audit Follow-Up Finding: Implemented

Review of the Department's fuel order tracking sheet and newly created written guidance found that staff have general guidance on how to review and pay fuel delivery invoices and formally list the acceptable fuel variance rate.

4. Establish tank charts for all tanks and ensure manual dipping measurements are converted using established tank charts to ensure the fuel monitoring system is accurate.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation. Fleet Services is in the process of recruiting for a Quality Assurance position focusing on the fuel program as the primary role.

Audit Follow-Up Finding: Implemented

Charts for all fuel tanks have been recently obtained by the Department. Since charts for all fuel tanks were only recently obtained the manual dipping measurements could not have been converted accurately in the

past year. The procedure will be reportedly conducted by staff in the future.

Employee Access to City Fuel Has Been Loosely Controlled

- 5. Establish a written procedure for granting and removing fuel access including establishing minimum criteria for fuel access, retaining all requests, and requiring complete profile listings including the complete name as listed by Human Resources. Criteria should consider if City volunteers and City employees with car allowances should have access to bulk fuel.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation.

Audit Follow-Up Finding: In Progress

Written guidance has been developed to outline the steps to add and remove employees within the system, but it does not establish a request retention process, or a requirement for complete profile listings. Some basic minimum criteria for fuel access have formalized but it is unclear if employees with car allowances should be permitted access or not. Staff reported that Human Resources notifies Fleet Services of terminated employees via email. Staff attempts to remove access within 24 hours but may be delayed due to weekends or scheduled time off. Staff do not retain records of either fuel access requests or termination notifications, so the audit team was unable to verify process timeliness.

- 6. Periodically review fuel management system users to ensure terminated employees are appropriately removed from the system.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation. Fleet Services has already commenced removing user with minimal to no usage.

Audit Follow-Up Finding: Implemented

Staff reported that a quarterly review of the fuel access system is conducted to remove any individuals who are no longer employed by the City or who have not utilized a fuel service station within 90 days. Review of the permitted list of bulk fuel users and recent fuel card transactions found that generally the access list has been updated.

To verify that terminated employees access were removed appropriately, a list of active City employees as of July 10, 2024, was compared to the

bulk fuel user list to verify access appropriateness. The results of this verification are summarized below:

Table 1: Bulk Fuel User Appropriateness Review

Finding	Users	Percent
Active Employee	830	92.5%
ID # Incorrect	58	6.4%
Terminated	4	0.5%
Not Found	5	0.6%
All:	897	100.0%

The review also found two card profiles that did not have a corresponding department name and six profiles with duplicate listings which may indicate that profile data and the access list is not always updated appropriately. Overall, there is evidence of improvement in the control of fuel access including removing bulk fuel access to terminated employees.

Some Fueling Practices Hinder Transaction Monitoring and Timely Billing

- Implement policies, procedures, or training to help communicate requirements and responsibilities for appropriate use of bulk fuel to fuel users, including the importance of entering accurate odometer readings.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the current process to comply with this recommendation.

Audit Follow-Up Finding: In Progress

Written documentation regarding the fueling process has been created and was shared with City Safety Division staff to be included in the City's Defensive Driving course. Safety staff confirmed that the information was shared, but that the training had not yet been updated. During the audit, Safety staff stated they will begin incorporating City vehicle fueling information into the course as soon as possible.

- Provide transaction details to user departments to allow for inappropriate transaction review.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation.

Audit Follow-Up Finding: Implemented

Recent fuel transaction data by vehicle is now available to all City staff on the City's intranet. A review of this report found that sufficient transaction details are listed to for user departments to identify unusual transactions including asset numbers and transaction totals by fuel type.

9. Establish a written procedure detailing the billing process and error correction process.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation.

Audit Follow-Up Finding: Implemented

A written procedure has been created that outlines the monthly billing process in detail and error correction instructions have been formalized to assist staff in completing their required tasks.

Fleet Services Appear to Comply with Safety & Security Standards; Compliance with Environmental Regulations Is Not Well Documented

10. Ensure all tank equipment, especially sensors, are operating and ensure if any issues are found the equipment is repaired promptly.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation.

Audit Follow-Up Finding: Implemented

The 2023 annual testing for both City fuel stations was completed and no equipment failure was found. However, the testing results for one site reported that the water sensor floats for the unleaded tanks were absent similar to 2022 and 2021 testing reports. Upon follow-up with the Department, staff consulted with their maintenance vendor to correct this issue and the correct water sensor floats were installed.

11. Verify what is the best release detection method for the City to implement and if inventory control remains a requirement, begin examining inventory records, specifically the difference between fuel tank volume and deliveries and sales, bi-monthly and report all suspected leaks per State requirements.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, document the process to comply with this recommendation.

Audit Follow-Up Finding: Not Implemented

Written documentation has been created that lists the monthly tank inspection requirement. However, there is no indication that the difference between fuel tank volumes and deliveries and sales are

calculated monthly nor any listed requirement that states if the difference between that data exceeds one percent of monthly sales plus 130 gallons for two months consecutively than the State should be notified.

Auditor review of February and March 2024 sales, inventory, and delivery data found that there were inconsistencies with diesel fuel tank levels which may have required further staff review or a potential suspected leak report to the State. Further steps need to be taken to ensure required fuel inventory control activities are maintained and appropriate actions are taken if data differences are found.

12. Develop written policies and procedures for all fuel management activities including manual fuel inventory checks, TCEQ required inspections and records retention.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division will evaluate, refine, and document the process to comply with this recommendation. Fleet Services is in the process of recruiting for a Quality Assurance position focusing on the fuel program as the primary role.

Audit Follow-Up Finding: Not Implemented

Written documentation has been created that overviews the bulk fuel process and, while it does mention each of fuel management activities, it does not describe all required steps and forms for these activities. Additionally, it does not include record retention requirements. Overall, the written guidance does not provide enough information to ensure staff are completing all necessary regulatory tasks and retaining required documentation increasing the risk that State-required activities are not completed appropriately.

Recommendation Status Update: Fuel Card Administration

This report summarizes the Audit of Fleet Services Operations: Fuel Card Administration recommendations, management responses, and the City Auditor's Office's follow-up findings, which describe to what extent City management has implemented Internal Audit's recommendations since the publication of the original report in June 2023.

Program Scope Has Significantly Expanded Since Approval Potentially Resulting in Unnecessary Cost

1. **Document fuel card program purpose, including authorized vehicle types, acceptable fuel products, and approved transaction locations as deemed appropriate by City leadership.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation. The management team has already begun researching and defining program parameters.

Audit Follow-Up Finding: In Progress

Due to technical limitations, there have not been any restrictions on fuel type or fuel amount placed in the system. Fleet Services and Procurement staff have a drafted fuel card policy and manual; however, this document has not been provided to users. Staff reported they will not distribute this document until an updated fuel card vendor and program is selected. Overall, no written guidance has been provided to users regarding fuel credit card usage to date.

2. **Create a process to document fuel card issuance requests and approval to ensure alignment with program purpose.**

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation. The management team will create a process that mirrors the City's PCard program which includes defined program parameters, training prior to card issuance, and continued education for cardholders.

Audit Follow-Up Finding: In Progress

The department plans to implement a process similar to the existing Procurement card program after a fuel card vendor or new program is selected. As mentioned above, a fuel card policy and manual has been created by the Procurement and Fleet Departments, but the final manual is pending the selection of a fuel card vendor or program.

A review of active fuel credit cards found that there are now 152 active cards in comparison to the 149 active cards in January 2023 with an increase of five new departments with fuel credit cards, further indicating the need to ensure alignment with the established program purpose.

3. Develop a long-term plan to increase the number of bulk fuel stations in alignment with expected City growth to allow for long-term fuel savings.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees with the recommendation and has already begun evaluating the feasibility of a temporary station for the existing City facilities located on the west side. In addition, the Facilities Division is wrapping up the City's Facilities Master Plan, which will be used to guide which future City facilities should include a bulk fuel station.

Audit Follow-Up Finding: Implemented

Fleet staff have opened a solicitation to build a new fueling station in the southwest portion of the city, which should provide easier fueling access for more City employees.

Inconsistent Card Issuance & Storage Practices as well as Limited Technical Card Controls Increase the Risk of Misuse

4. Implement clear guidance on how fuel cards should be stored and periodically review card usage to evaluate if low or no use cards are still needed.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation. The management team will create a process that mirrors the City's PCard program which includes program reporting on low and no-usage cards.

Audit Follow-Up Finding: In Progress

The drafted fuel card policy states that fuel cards need to be stored securely but no other specifics are provided. The draft also states that cards not used in three months may be terminated. However, as mentioned in Recommendation 1, this draft policy has not been distributed to users.

5. Comprehensive vehicle data should be maintained within fuel card profiles including basic identification data such as VIN numbers and vehicle parameters to allow for appropriate technical restrictions to be placed and monitored on the fuel cards.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation.

Audit Follow-Up Finding: In Progress

Staff reported that once a vendor has been selected and profile capabilities are known vehicle and fuel information will be uploaded into vehicle or user profiles as restrictive parameters. However, due to technical restrictions these parameters cannot be placed into the current system.

6. Consider eliminating the use of “pool” fuel cards to increase accountability.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees with this recommendation and will evaluate the need for pool cards.

Audit Follow-Up Finding: In Progress

Fleet Services has eliminated all spare cards for its Department; however, there has been no reduction of pool cards in other departments. Review of active cards also found that there is now an additional pool card active with no clearly defined department code increasing the risk of misuse.

Fuel Program Lacks User Accountability Increasing Risk of Misuse & Fraud

7. Create a process to document fuel user requests and approval and periodically review users to ensure access is appropriate.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation.

Audit Follow-Up Finding: In Progress

The draft policy addresses the steps to request a fuel card and review of access level request; however, the periodic review is not clearly detailed. Furthermore, as mentioned above a fuel card policy and manual has been created but the final manual is pending the selection of a fuel card vendor and program, which is currently out for solicitation.

8. Implement policies, procedures, or training to help communicate requirements and responsibilities for appropriate fuel card usage.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation. The management team has already begun researching and defining program parameters.

Audit Follow-Up Finding: In Progress

The draft policy does state that training will be required for new users. However, as mentioned previously the created fuel card policy and manual is pending the selection of a fuel card vendor or program.

9. Establish a written policy that requires card users to complete usage agreements, submit receipts for approval, and complete monthly transaction reconciliations.

Management Response: Concur

Fleet Services Division Comments: The Fleet Services Division agrees and will comply with this recommendation. The management team will create a process that mirrors the City's PCard program which includes cardholder agreements, transaction receipt approvals, and monthly reconciliations.

Audit Follow-Up Finding: In Progress

The draft policy states that along with the training mentioned above all new users must sign a card user agreement. However, as mentioned previously the created fuel card policy and manual is pending the selection of a fuel card vendor or program.

Audit Project Background

The City Auditor's Office is responsible for providing: (a) an independent appraisal² of City operations to ensure policies and procedures are in place and complied with, inclusive of purchasing and contracting; (b) information that is accurate and reliable; (c) assurance that assets are properly recorded and safeguarded; (d) assurance that risks are identified and minimized; and (e) assurance that resources are used economically and efficiently and that the City's objectives are being achieved.

Management Responsibility

City management is responsible for ensuring that resources are managed properly and used in compliance with laws and regulations; programs are achieving their objectives; and services are being provided efficiently, effectively, and economically.

Objectives, Scope, and Methodology

This report detailed the findings from a follow-up review of the Audit of Fleet Services Operations, which evaluated the effectiveness of the management over the City's bulk fuel inventory including safety & environmental regulation compliance, and the administration of the City's fuel credit card program. This report is intended to provide a progress update on recommendations from the [Audit of Fleet Services Operations: Fuel Management](#) and the [Audit of Fleet Services Operations: Fuel Card Administration](#) originally issued in April and June 2023 respectively.

Audit fieldwork was conducted during June and July 2024. The scope of the review varied depending on the procedure being performed. The following list summarizes major procedures performed during this time:

- Reviewed documentation from the issued audits to develop criteria including industry standards, best practices, policies, and procedures;
- Interviewed City staff from Fleet Services, Procurement, and Human Resources;
- Reviewed new policies and standard operating procedures related to the fueling processes;
- Examined the current bulk fuel user list and calculated the number of active profiles that had no transactions in over 90 days before July 1, 2024;
- Reviewed copies of emailed fuel orders and verified ordered amounts;

² The City of Denton's Internal Audit Department is considered structurally independent as defined by generally accepted government auditing standard 3.56.

- Reviewed copies of automated fuel inventory reports for a judgmental sample of 39 orders from Fiscal Year 2023-2024;
- Estimated the difference between expected and actual inventory levels based on sales and deliveries between February and March of 2024 to determine if the inventory is being balanced monthly per State regulation and if suspected releases are being reported appropriately based on available data; and
- Examined the current fuel credit card list and calculated the number of users, departments, and pool cards active within the program.

Auditing Standards

We conducted this performance audit follow-up review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



Follow Up Review of Fleet Services Operations: Fuel Management & Fuel Card Administration

Madison Rorschach
City Auditor
City Auditor's Office
August 6, 2024

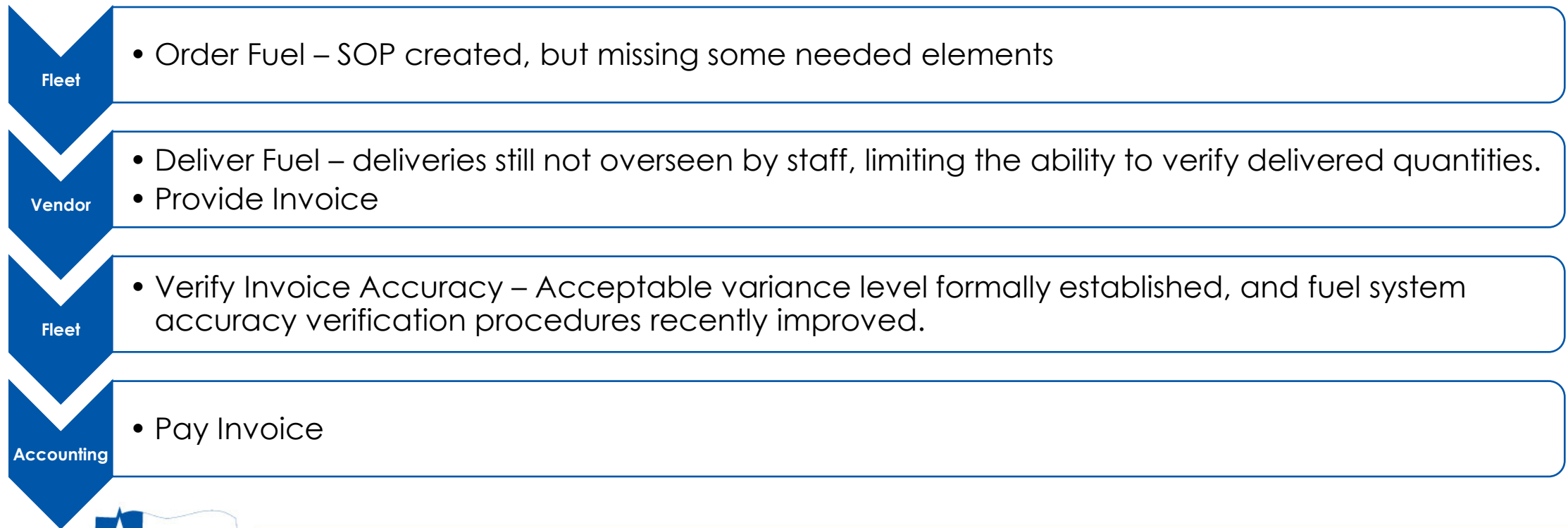
Purpose of the Follow-Up Review

- Provides a progress update on audit recommendations.
- Audit project evaluated the management of the City's bulk fuel inventory and fuel card administration.
- Review found some documentation improvements.



Some Fuel Ordering & Invoice Verification Guidance Established; Fuel Deliveries Still Not Overseen

Fuel Order & Payment Process Improvements



ID 24-251

3

Employee Access to Fuel Had Been Loosely Controlled; Access Mgmt. Has Significantly Improved

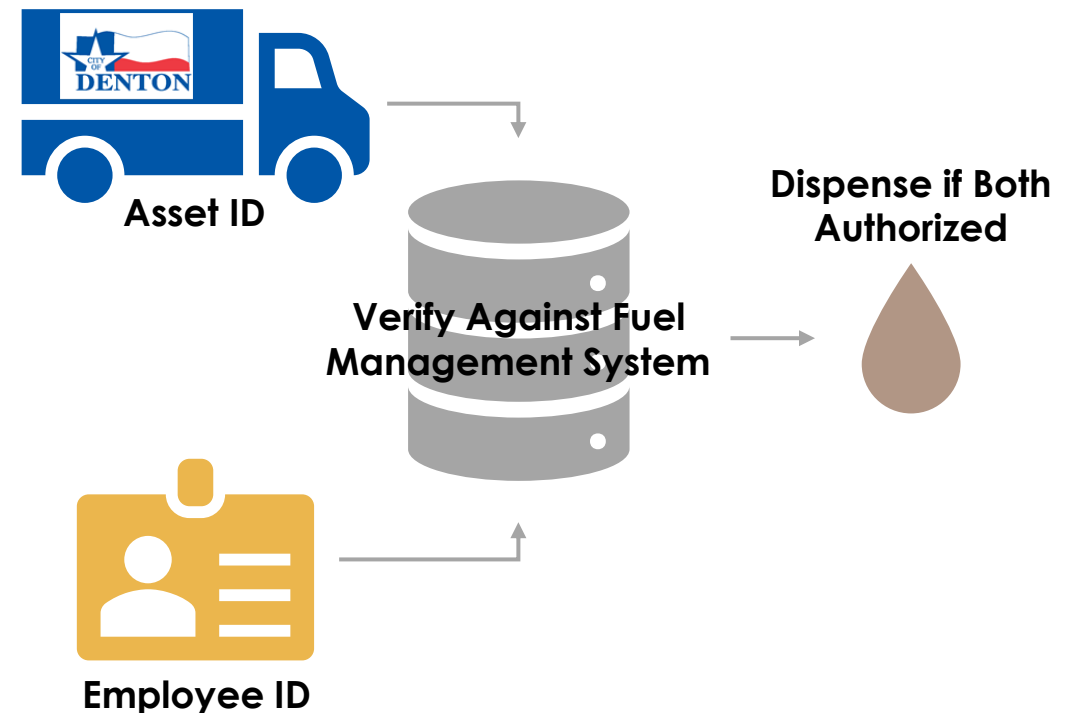
- Guidance on adding, editing, and removing fuel management system users created.
- User appropriateness improved.

Finding	Users
Active Employee	830
ID # Incorrect	58
Terminated	4
Not Found	5
All:	897



ID 24-251

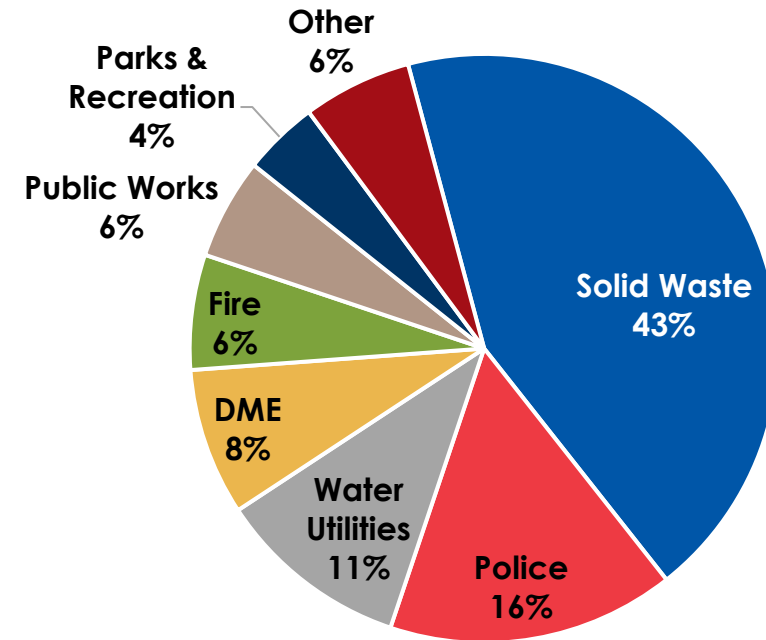
Fuel Access Authorization Process



Fueling Practice Improvements and New Reporting Has Improved Transaction Monitoring

- Monitoring of fuel transactions improved.
 - Transaction flags significantly reduced seemingly due to clearer fueling procedures.
 - Written guidance department billing developed.
 - Departments now provided with detailed fuel transaction information.

2024 Q1-Q 3 Fuel Usage by Department



Compliance with Environmental Regulations Still Not Well Documented

- Written guidance on performing and reporting on required fuel monitoring regulations has not been developed.
- No fuel release detection method has been implemented.



Fuel Card Program Manual Developed but Not Implemented

Area	Original Issues	Follow-Up Findings
Fuel Program	<ul style="list-style-type: none">• Program purpose & parameters not clearly established• Some card trans. could have occurred at City fuel stations	<ul style="list-style-type: none">• New fuel station planned• Program has expanded to five new departments.
Physical Card Controls	<ul style="list-style-type: none">• 1/3 of cards missing• Cards not always stored with vehicle	<ul style="list-style-type: none">• Drafted manual requires secure storage – no specifics
Technical Card Controls	<ul style="list-style-type: none">• Only merchant-type restrictions active• Some cards used for multiple vehicles (i.e., “pool” cards)	<ul style="list-style-type: none">• New restrictions on hold till new fuel card vendor selected• Number of pool cards remains the same
Cardholders	<ul style="list-style-type: none">• No written user authorization• No user training• Transactions not reviewed for appropriateness	<ul style="list-style-type: none">• Drafted manual outlines the user authorization process• Drafted manual requires user training and agreements• Drafted manual requires transaction review

Water System Operations Follow-Up Summary:

Some Improvement Made

Audit Area	Recommendations	Implemented	In Progress	Not Implemented
Fuel Delivery Oversight	4	50%	25%	25%
Fuel Access Management	2	50%	50%	0%
Transaction Monitoring & Billing	3	67%	33%	0%
Safety Stnds. & Environmental Regs.	3	33%	0%	67%
Fuel Card Administration	9	11%	89%	0%
All:	21	29%	57%	14%

Fuel Management Recommendations Not Implemented:

2. Develop a process to record tank levels just before and just after fuel deliveries.
11. Verify the best release detection method for the City to implement; if it is inventory control, begin reconciliations.
12. Develop written policies and procedures for all fuel management activities.



Questions?

Madison Rorschach

City Auditor

City Auditor's Office



ID 24-251

9



City of Denton

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Legislation Text

File #: ID 24-287, **Version:** 1

Receive a report, hold a discussion, and give staff direction regarding the Denton's Affordable Housing Bond priorities to develop and preserve affordable housing in Denton.

[Estimated Presentation/Discussion Time: 30 minutes]



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM/ DCM/ ACM: Christine Taylor

DATE: August 6, 2024

SUBJECT

Receive a report, hold a discussion, and give staff direction regarding the Denton's Affordable Housing Bond priorities to develop and preserve affordable housing in Denton.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Foster Economic Opportunity and Affordability.

DISCUSSION

Denton is committed to ensuring a diverse mix of affordable housing options to accommodate community members across various income levels as the city grows.

Affordable Housing Needs

- **Rental Housing:** Affordable to households earning <50% AMI*
- **Homes for Sale:** Affordable to households earning <80% AMI*
- **Support for Seniors:** Including retrofits and home repairs
- **Supportive Housing:** For persons with disabilities or experiencing homelessness
- **Low-Income Housing:** Prioritized in areas of opportunity

*Area Median Income: Defined annually by HUD for the DFW MSA, adjusted by household size.

Key Target Groups:

1. Low to Moderate Income Households Earning at or below 80% AMI.
2. Very Low-Income Households: Earning at or below 50% AMI.
3. Extremely Low-Income Households: Earning at or below 30% AMI.

In the City of Denton,

- 47.76% of households are low to moderate income.
 - 17.79% have incomes between 50% and 80% AMI
 - 13.56% have incomes between 30% and 50% AMI
 - 16.40% have incomes between 0 and 30% AMI

Thirty percent (30%) of Denton households (14,530 households) are Very Low Income, earning 50% AMI or below.

Out of 49,550 housing units, only 6,650 are affordable to low-moderate income households.

City of Denton Housing Plans & Goals

The City has prioritized supporting affordable housing in the Key Focus Area for Fostering Economic Opportunity and Affordability as well as other strategic planning documents. The City's Housing Plan as outlined in the Affordable Housing Needs & Market Value Analysis and the Denton Affordable Housing Strategic Toolkit as well as proposed Bond activities are in alignment with other City-wide strategies:

- Consolidated Plan for Housing Community Development
- Denton 2040 Plan
- Economic Development Strategic Plan and
- Small Area Plans such as the Southeast Denton Area Plan and the Downtown Area Plan have also identified affordable housing as a key priority.

City Council adopted Denton's Affordable Housing Strategic Toolkit on February 15, 2022 (ID 22-090). The toolkit outlines five recommended strategies with targeted activities to deliver housing interventions.

- **Infill Development:** Infill development refers to the construction of new buildings on vacant or underutilized land in developed areas of the City.
- **Zoning Relief and Variances:** Zoning relief and variances combines adjustments to regulations with targeted incentives to enable the private sector to produce lower priced units.
- **Increase Capacity and Resources:** The goal of increasing capacity and resources is to provide incentives, grant assistance, and technical assistance to the existing affordable housing development community and city partners to increase the output of new low-cost units.
- **Preservation and Expansion:** Preserving and expanding existing affordable housing is a top priority for the City of Denton. Two of the five proposed activities have been partially or fully implemented.
- **Increase Access to Information:** By increasing access to information for renters and landlords, the City can promote the existence and expansion of affordable housing and development.

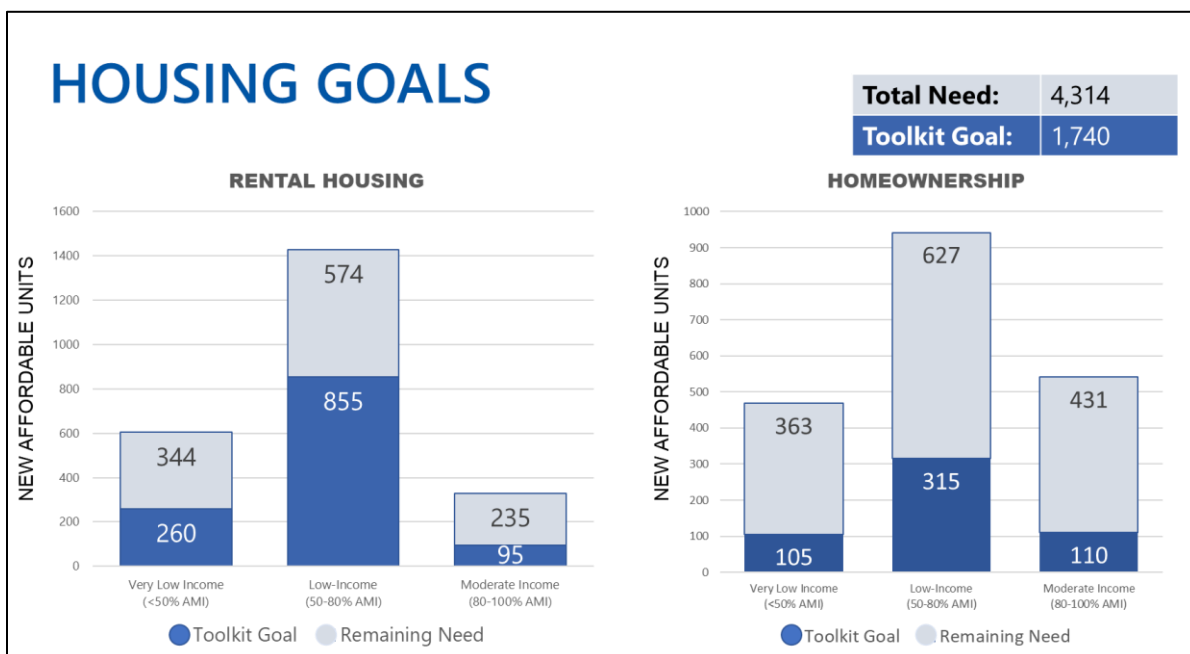


Figure 1

2023 Bond Election

On November 7, 2023, Denton voters approved a \$15,000,000 Affordable Housing Bond. Bonds for Affordable Housing will be issued on the following schedule:

2023 BOND ELECTION - PROPOSITION E AFFORDABLE HOUSING							
Program Description	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	FY28-29	Total
Affordable Housing	\$ -	\$5,000,000	\$5,000,000	\$5,000,000	\$ -	\$ -	\$15,000,000

Figure 2

Staff Engagement Process

During discussions with the Bond Committee, staff proposed Bond activities with percentage breakdown for each activity. In effort to refine the bond strategies staff conducted extensive stakeholder engagement, analysis, and training throughout this bond program process, as listed below.

- **Analyzed** similar housing programs administered by other cities.
- **Worked** with Bond Counsel to provide the best proposal
- **Hosted** trainings with all city departments to review Denton's housing plan and areas where projects will overlap.
- **Attended** trainings and conducted feedback conversations with professional organizations.
- **Explored** lessons learned through meetings with other City's implementing Affordable Housing Programs.
- **Conducted** exploratory conversations with lenders and developers with statewide experience in affordable housing.

This engagement has expanded our understanding of the different approaches and informed the current proposal percentages that staff is presenting today and seeking City Council direction (Figure 3).

	Original Proposed		Current Proposed	
	Percent of Bond Funds	Amount of Funding	Percent of Bond Funds	Amount of Funding
Land/Property Acquisition	75%	\$11,250,000	30%	\$4,500,000
Direct Project Financing	5%	\$750,000	50%	\$7,500,000
Expanding Capacity and Resources to Deliver	10%	\$1,500,000	10%	\$1,500,000
Housing Assistance Projects	10%	\$1,500,000	10%	\$1,500,000

Figure 3

Staff did work with Bond Counsel and requested a review of the proposed activities. Bond Counsel provided feedback to staff that the activities are acceptable uses of Bond Funds. Staff will also be seeking direction from City Council on these proposed activities (Figure 4) before bringing back specific program proposals to City Council for individual consideration.

Proposed Projects	FY2024-25	FY2025-26	FY2026-27	TOTALS
Land/Property Acquisition	\$1,500,000	\$1,500,000	\$1,500,000	\$4,500,000
Direct Project Financing	\$2,500,000	\$2,500,000	\$2,500,000	\$7,500,000
Expanding Capacity and Resources to Deliver	\$500,000	\$500,000	\$500,000	\$1,500,000
Small & Non-Profit Developer Program	\$500,000	\$500,000	\$500,000	\$1,500,000
Housing Assistance Programs	\$500,000	\$500,000	\$500,000	\$1,500,000
Accessory Dwelling Unit Programs	\$400,000			\$400,000
Voucher Holder Homeownership Program		\$200,000	\$200,000	\$400,000
Homeownership Down Payment Assistance Program		\$200,000	\$200,000	\$400,000
Eviction Prevention	\$100,000	\$100,000	\$100,000	\$300,000
ANNUAL TOTALS	\$5,000,000	\$5,000,000	\$5,000,000	\$15,000,000

Figure 4

Next Steps

- August 6, 2024 – City Council’s direction on bond funding strategy
- Fall 2024 – Program Approvals pending Council Direction
 - Informal Staff Report to provide a proposed path and timeline
 - Draft of a 380 Agreement for approval to issue Bonds and fund activities
 - Present program proposals for individual consideration and approval
- Ongoing Quarterly – Program metrics, including housing units produced, will be reported using Strategic Dashboard (Envisio) on a quarterly basis

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Presentation

Respectfully submitted:
Dani Shaw
Director of Community Services

Prepared by:
Leia Atkinson
Housing Programs Coordinator



AFFORDABLE HOUSING BOND STRATEGY

AUGUST 6, 2024
ID 24-287

COMMUNITY SERVICES

AGENDA

- Background
- Overview of the Bond Proposition
- Bond Issuance Proposed Timeline and Activities
- Next Steps

AFFORDABLE HOUSING NEEDS

Affordable Housing Needs

- **Rental Housing:** Affordable to households earning <50% AMI*
- **Homes for Sale:** Affordable to households earning <80% AMI*
- **Support for Seniors:** Including retrofits and home repairs
- **Supportive Housing:** For persons with disabilities or experiencing homelessness
- **Low-Income Housing:** In areas of opportunity

***Area Median Income:**

Calculated annually by HUD per region (DFW MSA) and adjusted for household size



CITY OF DENTON HOUSING PLANS & GOALS

The city's commitment to affordable housing

KEY FOCUS AREA: Fostering Economic Opportunity and Affordability

HOUSING PLANS & GOALS

- Affordable Housing Needs & Market Value Analysis
- Strategic Toolkit for Affordable Housing
- Alignment with Denton 2040 Plan, Economic Development Strategic Plan and Small Area Plans i.e. Southeast Denton, Downtown

KEY STRATEGIES FOR HOUSING DEVELOPMENT

1. Infill Development

- Increase infill development using vacant land and repurposing lots and buildings

2. Zoning Relief & Variances

- Provide zoning relief and variances to incentivize target development

3. Increase Capacity & Resources

- Expand the capacity of the building community and resources available to them

4. Preservation

- Preserve and expand existing housing affordability

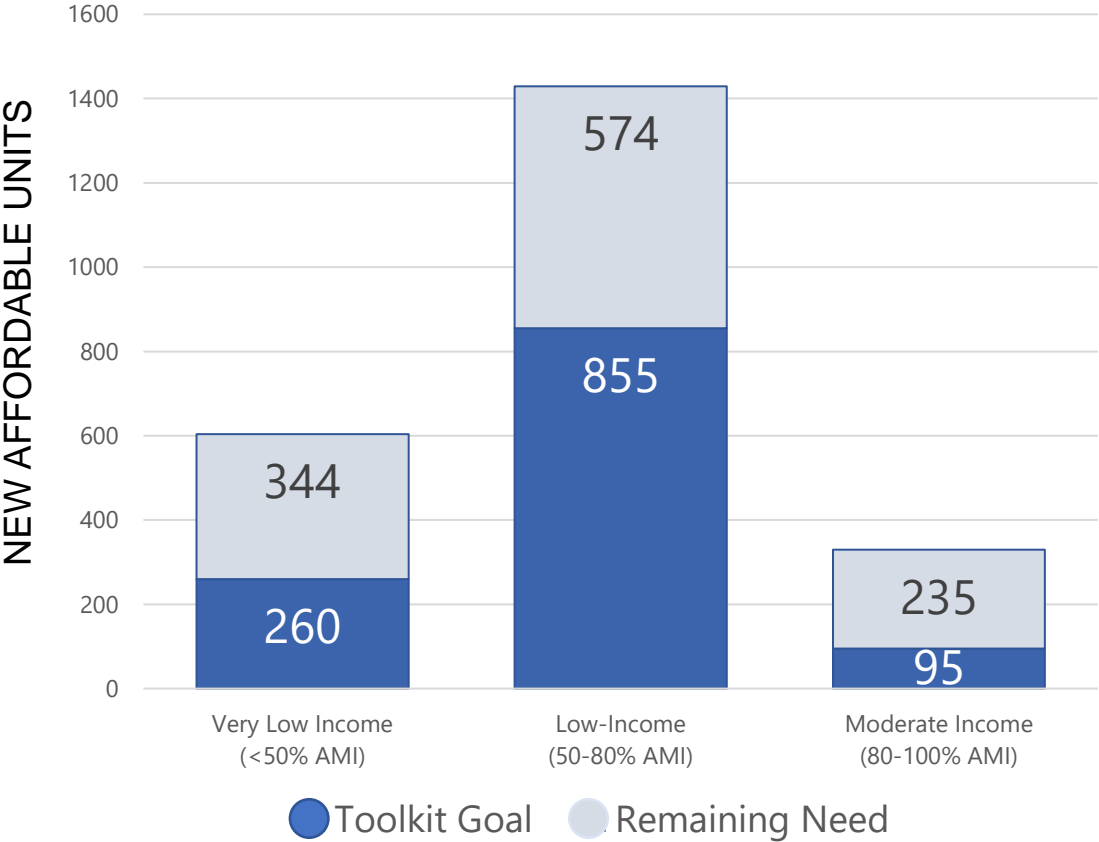
5. Increase Access to Information

- Provide education and information to aid in development of low- and moderately priced housing

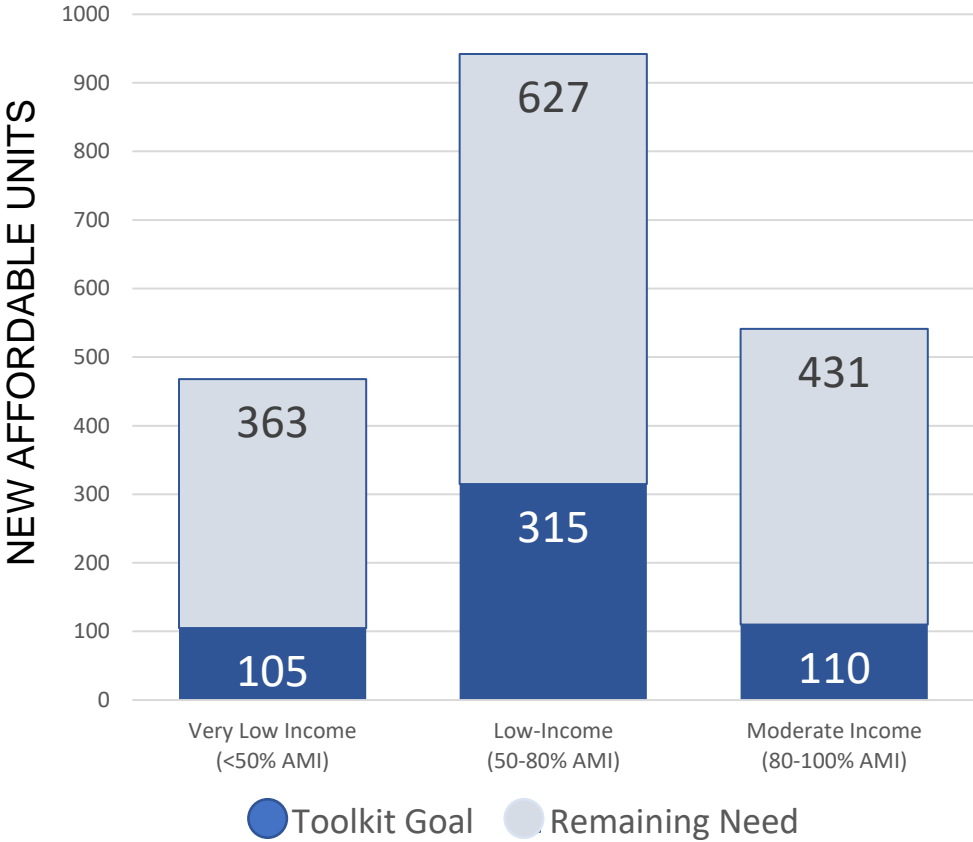
HOUSING GOALS

Total Need:	4,314
Toolkit Goal:	1,740

RENTAL HOUSING



HOMEOWNERSHIP



2023 BOND ISSUANCE TIMELINE

On November 7, 2023, Denton voters approved a \$15,000,000 Affordable Housing Bond.

2023 BOND ELECTION - PROPOSITION E AFFORDABLE HOUSING							
Program Description	FY23-24	FY24-25	FY25-26	FY26-27	FY27-28	FY28-29	Total
Affordable Housing	\$ -	\$5,000,000	\$5,000,000	\$5,000,000	\$ -	\$ -	\$15,000,000

STAFF ENGAGEMENT PROCESS

How we have expanded our understanding of the different approaches

- **Analyzed** similar housing programs administered by other cities.
- **Worked** with Bond Counsel to provide the best proposal
- **Hosted** trainings with all city departments to review Denton's housing plan and areas where projects will overlap.
- **Attended** trainings and conducted feedback conversations with professional organizations.
- **Explored** lessons learned through meetings with other City's implementing Affordable Housing Programs.
- **Conducted** exploratory conversations with lenders and developers with statewide experience in affordable housing.

PROPOSED ACTIVITIES & TIMELINE

	Original Proposed		Current Proposed	
	Percent of Bond Funds	Amount of Funding	Percent of Bond Funds	Amount of Funding
Land/Property Acquisition	75%	\$11,250,000	30%	\$4,500,000
Direct Project Financing	5%	\$750,000	50%	\$7,500,000
Expanding Capacity and Resources to Deliver	10%	\$1,500,000	10%	\$1,500,000
Housing Assistance Projects	10%	\$1,500,000	10%	\$1,500,000

CITY COUNCIL DIRECTION

Proposed Activities and Programs	FY2024-25	FY2025-26	FY2026-27	TOTALS
Land/Property Acquisition	\$1,500,000	\$1,500,000	\$1,500,000	\$4,500,000
Direct Project Financing	\$2,500,000	\$2,500,000	\$2,500,000	\$7,500,000
Expanding Capacity and Resources to Deliver	\$500,000	\$500,000	\$500,000	\$1,500,000
Small & Non-Profit Developer Program	\$500,000	\$500,000	\$500,000	\$1,500,000
Housing Assistance Programs	\$500,000	\$500,000	\$500,000	\$1,500,000
Accessory Dwelling Unit Programs	\$400,000			\$400,000
Voucher Holder Homeownership Program		\$200,000	\$200,000	\$400,000
Homeownership Down Payment Assistance Program		\$200,000	\$200,000	\$400,000
Eviction Prevention	\$100,000	\$100,000	\$100,000	\$300,000
ANNUAL TOTALS	\$5,000,000	\$5,000,000	\$5,000,000	\$15,000,000

NEXT STEPS

BOND STRATEGY	
August 6, 2024	City Council's direction on bond funding strategy
Fall 2024	<p>Program Approvals pending Council Direction</p> <ul style="list-style-type: none">• Staff will return via Informal Staff Report to provide a proposed path and timeline• Staff will return with 380 Agreement for adoption• Staff will return with program proposals for individual consideration
Ongoing Quarterly	<ul style="list-style-type: none">• Program metrics, including housing units produced, will be reported using Strategic Dashboard (Envisio) on a quarterly basis

CITY COUNCIL DIRECTION

Staff is seeking direction on the bond funding strategy including:

1. Proposed activities
2. Proposed percentage allocation to activities



City of Denton

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Legislation Text

File #: ID 24-1408, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Manager.



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Legislation Text

File #: ID 24-1409, **Version:** 1

AGENDA CAPTION

Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, dismissal, compensation, and/or contract of the City Attorney.



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Legislation Text

File #: ID 24-1384, 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. This agenda item is related to Items for Individual Consideration Agenda Item A. ID 24-1382 and Item B. ID 24-1383 and will be a placeholder unless Council members have questions requiring confidential discussion as allowed by law.

Receive information from staff containing public power information related to a Power Purchase Agreement between the City of Denton, as the seller of power and electric energy services, and SPRE Denton TX, LLC; discuss, deliberate, and provide direction to staff regarding same. Consultation with City's attorney regarding issues associated with the above matter where public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton under Texas Disciplinary Rule of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative or potential litigation.



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Legislation Text

File #: ID 24-1555, Version: 1

AGENDA CAPTION

Consultation with Attorneys - Under Texas Government Code Section 551.071. This agenda item is related to Consent Agenda Item I. ID 24-1554 and will be a placeholder unless the item is pulled for individual review.

Consult with the City's attorneys on the legal status, strategy and options for resolution of litigation in Cause No. 24-1005-481, styled "State of Texas v. City of Denton; Gerard Hudspeth, Mayor of Denton; Brian Beck, Mayor Pro Tem of Denton; Vicki Byrd, Paul Meltzer, Joe Holland, Brandon Chase McGee, and Chris Watts, Members of the City Council of Denton; Sara Hensley, City Manager of Denton; and Doug Shoemaker, Chief of Police of Denton; in their official capacities" pending in the 481st District Court, Denton County, Texas; where 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 the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or otherwise compromise the City's legal position in pending litigation.



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Legislation Text

File #: ID 24-1189, **Version:** 1

AGENDA CAPTION

Proclamation: National Aviation Day



City of Denton

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Legislation Text

File #: ID 24-1452, **Version:** 1

AGENDA CAPTION

Proclamation: Summer Youth Jobs Program Day



City of Denton

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Legislation Text

File #: ID 24-1480, **Version:** 1

AGENDA CAPTION

Proclamation: Community Health Centers: Powering Communities through Caring Connections



City of Denton

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Legislation Text

File #: ID 24-1497, **Version:** 1

AGENDA CAPTION

Ms. Donna Smith regarding moving forward.



City of Denton

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Legislation Text

File #: ID 24-1498, **Version:** 1

AGENDA CAPTION

Ms. Debbie Scaggs regarding current issues.



City of Denton

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Legislation Text

File #: ID 24-1499, **Version:** 1

AGENDA CAPTION

Mr. Charles Lee regarding presidential nominations.



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Legislation Text

File #: ID 24-1500, **Version:** 1

AGENDA CAPTION

Ms. Melinda Preston regarding upcoming elections.



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Legislation Text

File #: ID 24-1501, **Version:** 1

AGENDA CAPTION

Ms. Tracy Duckworth regarding homelessness.



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Legislation Text

File #: ID 24-1502, **Version:** 1

AGENDA CAPTION

Ms. JF Plangman regarding sanctuary city.



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Legislation Text

File #: ID 24-1506, **Version:** 1

AGENDA CAPTION

Ms. Mary Kuhfeldt regarding mortarium request at Denton apartment cities and stopping big apartment building.



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Legislation Text

File #: ID 24-499, **Version:** 1

AGENDA CAPTION

Consider nominations/appointments to the City's Boards, Commissions, and Committees: Community Services Advisory Committee.



City of Denton

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AGENDA INFORMATION SHEET

DEPARTMENT: City Secretary's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider nominations/appointments to the City's Boards, Commissions, and Committees: Community Services Advisory Committee

BACKGROUND

This item provides for the continued (re)appointment of members whose terms ended in 2024 and 2025. It also provides for appointment to any existing vacancies resulting from resignations or those seats under which existing members are holding over from a previous term.

Exhibit 2 includes those seats for the above-noted Boards, Commissions, and Committees for whom nominations have been received, nominees fully vetted and found to meet all necessary qualifications to serve on the respective board/commission/committee. Only those nominees who have been fully vetted and qualified will be presented for appointment.

This is not a complete listing of nominees received to date as the vetting is still in progress for some or (re)nominations have not been received.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Nominations List

Respectfully submitted:

Lauren Thoden
City Secretary

BOARDS & COMMISSIONS - NOMINATIONS LIST						
BOARD/COMMITTEE/COMMISSION	COUNCIL PLACE	NOMINATING CCM	NOMINEE	PRESENT TERM	NEW TERM	STATUS & QUALIFICATION OR PREFERENCE, IF ANY
Community Services Advisory Committee	3	Meltzer, Paul	Amy Morgan	N/A	UNEXPIRED September 1, 2023 through August 31, 2025	New



City of Denton

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Legislation Text

File #: ID 24-1485, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Behavioral Health Leadership Team; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Behavioral Health Leadership Team; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Denton County Behavioral Health Leadership Team [DCBHLT]. Members appointed to the DCBHLT may be elected officers, senior staff, executive, or community member. City Council is the appointing authority.

On June 28, 2022, Council adopted Resolution 22-1041 appointing Mayor Gerard Hudspeth to DCBHLT. Appointments were for the unexpired term ending June 30, 2024 (such applicable term covering the period of July 1, 2022 through June 30, 2024).

At the July 23, 2024 Work Session, Mayor Hudspeth renewed his expressed interest in serving on the DCBHLT.

The Work Session resulted in one nomination for one open seat.

MEMBER(S) TO BE APPROVED (SELECT 1):

Mayor Gerard Hudspeth

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Resolution

Respectfully submitted:

Lauren Thoden

City Secretary

RESOLUTION NO. 24-1485

A RESOLUTION OF THE CITY OF DENTON APPOINTING MAYOR HUDSPETH AS A MEMBER TO THE DENTON COUNTY BEHAVIORAL HEALTH LEADERSHIP TEAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Denton County Behavioral Health Leadership Team Bylaws outline the board composition and states, in part, “...shall be composed of appointees from the following entities... (1) City of Denton.”

WHEREAS, on June 28, 2022, City Council adopted Resolution 22-1041 appointing Mayor Gerard Hudspeth to the Denton County Behavioral Health Leadership Team for the term ending June 30, 2024 (such applicable term covering the period of July 1, 2022 through June 30, 2024); and

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Mayor Hudspeth to serve on the Denton County Behavioral Health Leadership Team for the expired term ending June 30, 2024 (such applicable term covering the period of July 1, 2024 through June 30, 2026); NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Mayor Hudspeth is appointed to serve on the Denton County Behavioral Health Leadership Team for the unexpired term ending June 30, 2026.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____

Paul Meltzer, District 3: _____

Joe Holland, District 4: _____

Brandon Chase McGee, At Large Place 5: _____

Jill Jester, At Large Place 6: _____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY



BY: _____



City of Denton

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Legislation Text

File #: ID 24-1488, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Housing and Homelessness Leadership Team; and providing an effective date.



City of Denton

City Hall
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AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing Mayor Hudspeth as a member to the Denton County Housing and Homelessness Leadership Team; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Denton County Housing and Homelessness Leadership Team [DCHHLT]. Members appointed to the DCHHLT may be elected officers, senior staff, executive, or community member. City Council is the appointing authority.

At the July 23, 2024 Work Session, Mayor Hudspeth renewed his expressed interest in serving on the DCHHLT for the unexpired term ending June 9, 2026 (such applicable term covering the period of June 10, 2024 through June 9, 2026).

The Work Session resulted in one nomination for one open seat.

MEMBER(S) TO BE APPROVED (SELECT 1):

Mayor Gerard Hudspeth

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Resolution

Respectfully submitted:

Lauren Thoden
City Secretary

RESOLUTION NO. 24-1488

A RESOLUTION OF THE CITY OF DENTON APPOINTING MAYOR HUDSPETH AS A MEMBER TO THE DENTON COUNTY HOUSING AND HOMELESSNESS LEADERSHIP TEAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Denton County Housing and Homelessness Leadership Team Bylaws outline the board composition and states, in part, "...shall be composed of appointees from the following entities... (1) City of Denton" and;

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Mayor Hudspeth to serve on the Denton County Housing and Homelessness Leadership Team for the expired term ending June 9, 2024 (such applicable term covering the period of June 9, 2024 through June 9, 2026); NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Mayor Hudspeth is appointed to serve on the Denton County Housing and Homelessness Leadership Team for the unexpired term ending June 9, 2026.

SECTION 3. This Resolution shall become effective immediately upon its passage and approval.

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

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____

Brandon Chase McGee, At Large Place 5: _____

Jill Jester, At Large Place 6: _____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

A handwritten signature in blue ink, appearing to read "Amanda Brown", is written over a rectangular area.

BY: _____



City of Denton

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Legislation Text

File #: ID 24-1489, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing Council Member Vicki Byrd as a member to the Denton County Workforce Success Leadership Team; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing Council Member Vicki Byrd as a member to Denton County Workforce Success Leadership Team; and providing and effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Denton County Workforce Success Leadership Team. Council Member Vicki Byrd expressed interest in serving on the Denton County Workforce Leadership Success Team.

At the July 23, 2024 Work Session, Council Member Vicki Byrd renewed their expressed interest in serving on the Denton County Work Force Success Leadership Team.

The Work Session resulted in the nomination for the one open seat.

MEMBER TO BE APPROVED

Council Member Vicki Byrd

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Resolution

Respectfully submitted:

Lauren Thoden
City Secretary

RESOLUTION NO. 24-1489

A RESOLUTION OF THE CITY OF DENTON APPOINTING COUNCIL MEMBER VICKI BYRD AS A MEMBER TO THE DENTON COUNTY WORKFORCE SUCCESS LEADERSHIP TEAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Denton County Workforce Success Leadership Team Bylaws outline the board composition and states, in part, “...*shall be composed of appointees from the following entities... (1) City of Denton.*”

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Council Member Vicki Byrd to serve on the Denton County Workforce Success Leadership Team for the unexpired term ending June 30, 2025 (such applicable term covering the period of July 1, 2023 through June 30, 2025); NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Council Member Vicki Byrd is appointed to serve on the Denton County Workforce Success Leadership Team for the unexpired term ending June 30, 2025.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____

Joe Holland, District 4: _____

Brandon Chase McGee, At Large Place 5: _____

Jill Jester, At Large Place 6: _____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

A handwritten signature in blue ink, appearing to read "Amanda Buran".

BY: _____



City of Denton

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Legislation Text

File #: ID 24-1490, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing Council Member Brian Beck as a member to the Denton Community Shelter (Loop 288) Advisory Board; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing Council Member Brian Beck as a member to the Denton Community Shelter (Loop 288) Advisory Board; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Denton Community Shelter (Loop 288) Advisory Board. Council Member Beck expressed interest in serving on the Denton Community Shelter (Loop 288) Advisory Board.

At the July 23, 2024 Work Session, Council Member Beck renewed his expressed interest in serving on the Denton Community Shelter (Loop 288) Advisory Board.

The Work Session resulted in one nomination for one open seat.

MEMBER(S) TO BE APPROVED (SELECT 1):

Council Member Brian Beck

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Proposed Resolution

Respectfully submitted:

Lauren Thoden

City Secretary

RESOLUTION NO. 24-1490

A RESOLUTION OF THE CITY OF DENTON APPOINTING COUNCIL MEMBER BRIAN BECK AS A MEMBER TO THE DENTON COMMUNITY SHELTER (LOOP 288) ADVISORY BOARD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Denton Community Shelter (Loop 288) Advisory Board Bylaws outline the board composition and states, in part, “...shall be composed of appointees from the following entities... (1) City of Denton.”

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Council Member Brian Beck to serve on the Denton Community Shelter (Loop 288) Advisory Board for the unexpired term ending April 30, 2026; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Council Member Brian Beck is appointed to serve on the Denton Community Shelter (Loop 288) Advisory Board for the unexpired term ending April 30, 2026.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____

Brandon Chase McGee, At Large Place 5: _____

Jill Jester, At Large Place 6: _____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

A handwritten signature in blue ink, appearing to read "Amanda Boren", is written over a rectangular box.

BY: _____



City of Denton

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

Legislation Text

File #: ID 24-1510, **Version:** 1

AGENDA CAPTION

Consider approval of a nominee(s) appointing members to the Committee on the Environment, and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a nominee(s) appointing members to the Committee on the Environment, and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Mayor Hudspeth was asked to identify his nominees to the Committee on the Environment to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There are three positions open on the Committee on the Environment. The Mayor nominated Council Members Beck, McGee, and Holland to the Committee on the Environment.

At the July 23, 2024 Work Session, Council Members Beck and Holland accepted the nominations to the Committee on the Environment. Council Member McGee's declination of nominations was noted. Mayor Pro Tem Meltzer noted his interest in serving on this committee. The Mayor renewed his nominations of Council Members Beck, McGee, and Holland.

MEMBERS TO BE APPROVED:

Council Member Brian Beck

Council Member Brandon Chase McGee

Council Member Joe Holland

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 24-1512, **Version:** 1

AGENDA CAPTION

Consider approval of a nominee(s) appointing members to the Mobility Committee, and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a nominee(s) appointing members to the Mobility Committee, and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There are three positions open on the Mobility Committee. Council Members Byrd and Beck expressed interest in serving on the Mobility Committee.

At the July 23, 2024 Work Session, Council Members Byrd, Beck renewed their expressed interest in serving on the Mobility Committee. Council Member Holland was nominated during the Work Session and accepted said nomination.

The Work Session resulted in three nominations for three open seats.

MEMBER(S) TO BE APPROVED (SELECT 3):

Council Member Vicki Byrd
Council Member Brian Beck
Council Member Joe Holland

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Respectfully submitted:

Lauren Thoden
City Secretary



City of Denton

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

Legislation Text

File #: ID 24-1536, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton approving an Agreed Final Judgment for Cause No. PR-2022-00917-A Case Style: "*City Of Denton V. Walter E. Leatherwood And Betty A. Leatherwood, Individually And As Trustees Of The Walter E. Leatherwood And Betty A. Leatherwood Living Trust*" pending in the Denton County Probate Court, Denton County, Texas;" and directing the City Manager and the City's Attorney to effectuate as necessary and appropriate the terms of an Agreed Final Judgment; authorize the expenditure of funds not to exceed Eight Hundred Thousand And 00/100 dollars (\$800,000.00) for a total settlement amount of (\$1,5000,000.00); and declaring an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Attorney's Office

CM/ DCM/ ACM: Mack Reinwand, City Attorney

AGENDA DATE: August 6, 2024

SUBJECT

An ordinance of the City of Denton approving an Agreed Final Judgment for Cause No. PR-2022-00917-A Case Style: "*City Of Denton V. Walter E. Leatherwood And Betty A. Leatherwood, Individually And As Trustees Of The Walter E. Leatherwood And Betty A. Leatherwood Living Trust*" pending in the Denton County Probate Court, Denton County, Texas;" and directing the City Manager and the City's Attorney to effectuate as necessary and appropriate the terms of an Agreed Final Judgment; authorize the expenditure of funds not to exceed Eight Hundred Thousand And 00/100 dollars (\$800,000.00) for a total settlement amount of (\$1,5000,000.00); and declaring an effective date.

BACKGROUND

The City filed a petition in condemnation to acquire the Property Interests in order to provide for the widening and improvement of Hickory Creek Road located in the City of Denton for the City's Hickory Creek Road Project, all for the public safety and welfare, to serve the public and the citizens of the City.

On November 14, 2022, the special commissioners appointed by the Court awarded the Leatherwoods Seven Hundred Thousand And 00/100 Dollars (\$700,000.00) as compensation for the taking of the Property Interests and damages to the remainder of the Property (the "Award"). The Leatherwoods objected to the Award.

On November 28, 2022, the City of Denton, Texas deposited the amount of the Award into the registry of the Court. On December 8, 2022, the Court entered its order disbursing the Award to the Leatherwoods. Trial was set by the Court to begin August 5, 2024.

The City of Denton, Texas and the Leatherwoods have agreed that the total compensation and consideration payable to the Leatherwoods for the condemnation of the Property Interests and resolution of all matters in controversy, shall be One Million Five Hundred Thousand And 00/100 Dollars (\$1,500,000.00).

OPTIONS

Given the City's liability exposure, the costs to defend the matter, Plaintiffs' damages, the testimony provided by the City's employee and Plaintiff, I recommend that we settle this matter for \$105,000.00. Settlement of this matter within previously delegated settlement authority, and the option is to formally ratify and approve the settlement.

RECOMMENDATION

Proceed with formal approval.

EXHIBITS

Exhibit 1 – AIS

Exhibit 2 – Ordinance and Agreed Final Judgment

Respectfully submitted:

/s/ Benjamin N. Samples, II
First Assistant City Attorney

Legal Staff Contact:
Benjamin Samples

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON APPROVING AN AGREED FINAL JUDGMENT FOR CAUSE NO. PR-2022-00917-A CASE STYLE: “*CITY OF DENTON V. WALTER E. LEATHERWOOD AND BETTY A. LEATHERWOOD, INDIVIDUALLY AND AS TRUSTEES OF THE WALTER E. LEATHERWOOD AND BETTY A. LEATHERWOOD LIVING TRUST*” PENDING IN THE DENTON COUNTY PROBATE COURT, DENTON COUNTY, TEXAS;” AND DIRECTING THE CITY MANAGER AND THE CITY’S ATTORNEY TO EFFECTUATE AS NECESSARY AND APPROPRIATE THE TERMS OF AN AGREED FINAL JUDGMENT; AUTHORIZE THE EXPENDITURE OF FUNDS NOT TO EXCEED EIGHT HUNDRED THOUSAND AND 00/100 DOLLARS (\$800,000.00) FOR A TOTAL SETTLEMENT AMOUNT OF (\$1,5000,000.00); AND DECLARING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The City Council hereby approves the Agreed Final Judgment for Cause No. PR-2022-00917-A Case Style: “City of Denton V. Walter E. Leatherwood and Betty A. Leatherwood, Individually and As Trustees of The Walter E. Leatherwood and Betty A. Leatherwood Living Trust” pending in the Denton County Probate Court, Denton County, Texas, attached hereto as Exhibit A.

SECTION 2. The City Manager, or designee, and the City’s Attorney, or designee, are hereby authorized to act on the City’s behalf in approving and executing any and all documents necessary or appropriate to effectuate the terms of the Agreed Final Judgment, and to take other actions necessary to finalize the settlement.

SECTION 3. The City Manager, or designee, is authorized to expend an amount not to exceed Eight Hundred Thousand and 00/100 Dollars (\$800,000.00).

SECTION 4. This Ordinance shall become effective immediately upon its passage and approval.

[Signatures to appear on the following page]

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: _____

Exhibit A
(Agreed Final Judgment)



City of Denton

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

Legislation Text

File #: ID 24-1554, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to an engagement between the City of Denton and Lloyd Gosselink Rochelle & Townsend, P.C., amending the engagement approved by the City Attorney on March 28, 2024, in the not-to-exceed amount of \$155,000.00; said first amendment to provide additional legal services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 8554 - providing for an additional first amendment expenditure amount not-to-exceed \$155,000.00, with the total contract amount not-to-exceed \$200,000.00).



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Attorney's Office

CM/ DCM/ ACM: Mack Reinwand, City Attorney

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the approval of a first amendment to an engagement between the City of Denton and Lloyd Gosselink Rochelle & Townsend, P.C., amending the engagement approved by the City Attorney on March 28, 2024, in the not-to-exceed amount of \$155,000.00; said first amendment to provide additional legal services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (File 8554 – providing for an additional first amendment expenditure amount not-to-exceed \$155,000.00, with the total contract amount not-to-exceed \$200,000.00).

INFORMATION/BACKGROUND

Attorney General, Ken Paxton, sued the City of Denton, as well as Austin, San Marcos, Killeen, and Elgin, for adopting decriminalization ordinances and policies that violate Texas law concerning marijuana possession and distribution.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

City Council has been briefed on this matter in numerous Legal Status Reports as well as several Closed Session meetings listed below:

April 16, 2024

June 4, 2024

July 16, 2024

RECOMMENDATION

Award Amendment No. 1 with Lloyd Gosselink Rochelle & Townsend, P.C., to provide additional legal services for the City of Denton, in a not-to-exceed amount of \$155,000.00, for a total amended contract amount of \$200,000.00.

FISCAL INFORMATION

These services will be funded from the Risk Retention Fund. Purchase Order #206812 will be revised to include the first amendment amount of \$155,000.00. The total amended amount of this contract is \$200,000.00.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Ordinance

Respectfully submitted:

/s/ Devin Alexander
Deputy City Attorney

Legal Staff Contact:
Devin Alexander

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE APPROVAL OF A FIRST AMENDMENT TO AN ENGAGEMENT BETWEEN THE CITY OF DENTON AND LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C., AMENDING THE ENGAGEMENT APPROVED BY THE CITY ATTORNEY ON MARCH 28, 2024, IN THE NOT-TO-EXCEED AMOUNT OF \$155,000.00; SAID FIRST AMENDMENT TO PROVIDE ADDITIONAL LEGAL SERVICES FOR THE CITY OF DENTON; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8554 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$155,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$200,000.00).

WHEREAS, on March 28, 2024, the City Attorney approved an engagement with Lloyd Gosselink Rochelle & Townsend, P.C. in the amount of \$45,000.00, for legal services; 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 Lloyd Gosselink Rochelle & Townsend, P.C., which is on file in the office of the Purchasing Agent, in the amount of One Hundred Fifty Five Thousand (\$155,000.00) 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 referenced herein. The total contract amount increases to \$200,000.00.

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:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the ____ day of August, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Mack Reinwand



City of Denton

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

Legislation Text

File #: ID 24-1420, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton, Texas, adopting the City of Denton's Climate Action Plan, which outlines the City's Science-based Path to achieve Net Zero Greenhouse Gas Emissions by 2050; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: Environmental Services and Sustainability

ACM: Christine Taylor, Assistant City Manager

DATE: August 6, 2024

SUBJECT

Consider approval of a Resolution of the City of Denton, Texas adopting the City of Denton's Climate Action Plan which outlines the City's Science-Based Path to achieve Net Zero Greenhouse Gas Emissions by 2050; and providing an effective date.

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Promote Sustainability and the Environment.

INFORMATION/BACKGROUND

The City of Denton has placed Sustainability as a high priority for City Council and our Community. The Simply Sustainable Framework (SSF) and the Sustainability Framework Advisory Committee (SFAC) inform and provide guidance for making our community more sustainable. The Sustainability Framework Fund created in August 2021 provides funding to implement the SSF and supplement actions. On April 19, 2022 the City Council approved Ordinance 22-746 which established a Science Based Target, and the need for a formal Climate Action Plan.

Sustainability Solutions Group (SSG) was selected by the evaluation committee. Council approved the contract with SSG on July 19, 2022. SSG was tasked with identifying a path to meet the Science Based Target Goals of a 46.3% reduction by 2030 and net zero by 2050. SSG completed community engagement, modeled actions, and developed the document that was presented to City Council in an October 24, 2023 work session.

The Climate Action Plan (CAP) proposed for adoption builds on SSG's efforts and addresses feedback received from Council. The CAP has three primary goals with sixteen actions to progress towards net zero by 2050. Actions are voluntary in nature and align with various other master plans adopted by Council. Emission reduction efforts target how the community travels and moves within Denton, how buildings (existing and new) can be enhanced for energy efficiency and future resiliency, and how the Denton community can be designed and built to enhance access to necessities and embrace renewable energy.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

December 14, 2022 – Community Webinar
January 26, 2023 – Community Town Hall #1

January 27, 2023 – Sustainability Framework Advisory Committee Presentation
February 28, 2023 – Community Survey and Meeting in a Box request form available online.
April 11, 2023 - Committee on the Environment Update presented
May 26, 2023 Sustainability Framework Advisory Committee
July 28, 2023 – Sustainability Framework Advisory Committee
August 8, 2023 – Committee on the Environment Update
October 24, 2023 – City Council Work Session
June 7, 2024 – Sustainability Framework Advisory Committee
June 18, 2024 – City Council Work Session

SUSTAINABILITY MEASURES

Relationship to Sustainability Framework

Focus Area & Goals: ALL

Air Quality and Greenhouse Gas Management and Transportation

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Resolution and Climate Action Plan

Staff contact: Michael Gange, 940-349-7165

RESOLUTION NO.

A RESOLUTION OF THE CITY OF DENTON, TEXAS, ADOPTING THE CITY OF DENTON'S CLIMATE ACTION PLAN, WHICH OUTLINES THE CITY'S SCIENCE-BASED PATH TO ACHIEVE NET ZERO GREENHOUSE GAS EMISSIONS BY 2050; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on April 19, 2022, the City Council approved Ordinance No. 22-746, establishing a Science-Based Target for Greenhouse Gas Mitigation and stating the need for a formal Climate Action Plan; and

WHEREAS, on July 19, 2022, the City Council approved Ordinance No. 22-1400, authorizing a contract with Sustainability Solutions Group ("SSG") to create a Climate Action and Adaptation Plan for the City of Denton; and

WHEREAS, on October 24, 2023, the City Council held a work session to review, discuss, and provide recommendations on the draft Climate Action and Adaptation Plan generated by SSG and provided feedback to staff; and

WHEREAS, on June 7, 2024, the Sustainability Framework Advisory Committee ("SFAC") held a work session to review, discuss, and provide recommendations on the revised Climate Action Plan for the City of Denton; and

WHEREAS, on June 18, 2024, the City Council held a work session on the draft Climate Action Plan, as recommended by SFAC, to review, discuss, and provide recommendations for the finalization of the Climate Action Plan; and

WHEREAS, the City Council finds that the City of Denton - Climate Action Plan is in the best interest of the health, safety, and general welfare of the residents of the City of Denton, Texas.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DENTON, TEXAS HEREBY RESOLVES:

SECTION 1. The findings and recitals contained in the preamble to this Resolution are true and correct and hereby incorporated by reference into the body of this Resolution as fully set forth herein.

SECTION 2. The City Council hereby establishes that the City of Denton - Climate Action Plan shall affect all greenhouse gas mitigation for the City of Denton.

SECTION 3. The City of Denton - Climate Action Plan, attached hereto as Exhibit "A" and incorporated herein, is hereby adopted by the City of Denton, Texas.

SECTION 4. The City of Denton - Climate Action Plan attached in Exhibit "A" shall be filed with the City Secretary.

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

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

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

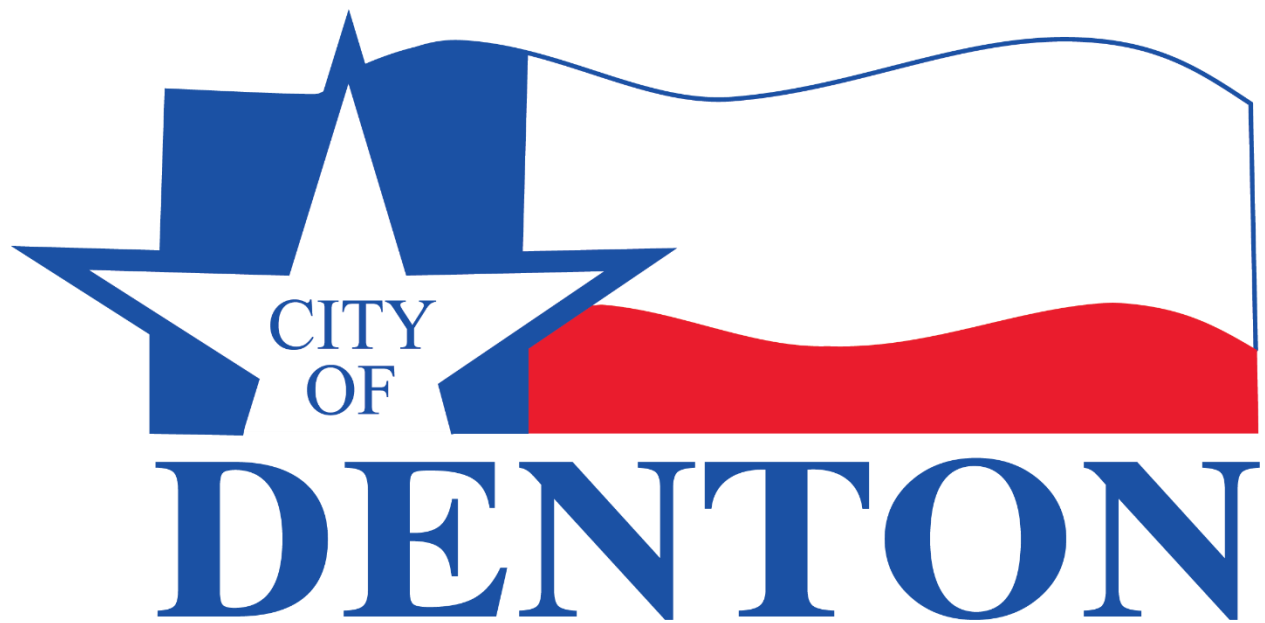
ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Christopher Mullins

EXHIBIT “A”
CITY OF DENTON - CLIMATE ACTION PLAN



Climate Action Plan

August 2024



City of Denton – Climate Action Plan

Introduction

The City of Denton established Science-Based Targets (SBTs) to reduce community-wide greenhouse gas emissions and ultimately reach net-zero emissions by 2050 (via ordinance 22-746, April 19, 2022). That ordinance called for a formal Climate Action Plan (CAP) to outline the path to achieving a SBT while addressing the need to build resilience to climate hazards and vulnerabilities.

In 2023, the City Council authorized a contract with Sustainability Solutions Group (SSG) using a public process to draft a Climate Action and Adaptation Plan (CAAP). That plan was discussed with City Council on October 24, 2023 during a work session. This document replaces the CAAP drafted by SSG and pushes forward goals and actions that are aspirational and set Denton on a strong path to net-zero by 2050.

As is the case in any plan, the success will be tied to market availability, community support, direct investment as needed, maximizing incentives/rebates from Federal, State and local resources, and a continued commitment by the City of Denton as an organization.

Public outreach is embedded in each, and every action outlined in this CAP. Communication is vital to ensure resources do not go underutilized and that all parts of the community are reached. No one means of communication is sufficient and for success Denton will need to leverage all available means.

City of Denton's Goals and Actions

Under the Climate Action Plan (CAP) three primary goals have been identified with sixteen actions to progress towards net zero by 2050.

1. Enhance how the Denton community moves with improved active travel modes and efficient motor driven travel.

- 1.1 Decarbonize fleet (all sources)
- 1.2 Improve Active Transportation Infrastructure
- 1.3 Encourage Walking and Biking (no emission modes)
- 1.4 Decrease total number of trips taken in vehicles
- 1.5 Facilitate Installation of Green Hydrogen Fueling Station

2. Enhance buildings to improve efficiency, resilience, and reduce long-term impact.

- 2.1 Encourage energy efficiency upgrades (existing bldgs.)
- 2.2 Encourage Reduction in Overall Energy Consumption
- 2.3 Encourage Very High Energy Efficiency Standard (new bldgs.)
- 2.4 Encourage Zero-Emission Systems in buildings
- 2.5 Reduce Waste produced per capita
- 2.6 Increase waste diversion (reuse, recycling, composting, etc.)
- 2.7 Maximize Organic Diversion for Renewable Natural Gas
- 2.8 Reduce water consumption

3. Enhance land use to improve access to necessities, minimize energy needs, and ensure connectivity across Denton.

- 3.1 Enhance Access to Necessities (walkable communities)
- 3.2 Increase local, renewable energy generation capacity
- 3.3 Produce Renewable Natural Gas from Landfill

Focus Areas for Emission Reductions

Community-wide emissions that may be avoided, reduced, or replaced may be grouped into three main areas: **Travel / Movement**: how the community and commodities move within the city; **Building**: how the buildings are modified, built, and operated; and **Land Use**: how the city is designed and built. Outreach is critical for all these areas to best equip the Public with the resources to guide decisions and navigate purchase options. There is no one best method to reach the community.

Travel/Movement	
Emission source	Opportunities
Walking	Infrastructure / Safety
Bicycling	Infrastructure / Safety
Transit	Accessibility / Connectivity
Vehicle Miles Traveled	Behavior Change / Accessibility
Type of Vehicle	Cost / Availability / Accessibility

Building	
Emission source	Opportunities
Structure	Efficiency / Size / Location
Equipment	Major / Minor / Cost
Usage	Electric / Gas / Water
Waste	Reduction / Diversion / Collection

Land Use	
Emission source	Opportunities
Infill Development	Access to Utilities / Access to Necessities
Access	Multi-Use / Compact
Density	Live, Work, & Play Options / Energy Efficiency
Network / Infrastructure	Options / Address Needs / Safety

These are just some of the potential opportunities available to address the community-wide emissions. The City of Denton must raise awareness in all parts of the community to progress this Climate Action Plan in effort to reach net-zero emissions by 2050.

Action Summary Pages

TRANSPORTATION

Action 1.1: Decarbonize fleet (all sources)

Why:	Transportation related sources generate 53% of the greenhouse gas emissions within the City of Denton. These emissions also contain nitrogen oxides which are a precursor to ground level ozone. The Denton area is non-attainment for ground level ozone.
-------------	--

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> KA 154 – Encourage special and dedicated parking to promote electric vehicles & car charging stations KA 267 – SWR vehicle fleet operates on clean fuels 	<ul style="list-style-type: none"> Objective 4.4: Encourage and provide incentives for commercial, office, and industrial development to provide preferred parking for carpools, vanpools, electric vehicles, and flex cars.
Parks, Recreation, and Trails System Master Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> Goal 5: Ref. # 5.3.4 Research and implement equipment that is eco-friendly while also efficient and effective 	<ul style="list-style-type: none"> Chapter 2, Strategy #1 – Implement Sustainable Municipal Fleet Program

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> Denton's GreenSense Program – EV Incentive Alternative Fuel Infrastructure Tax Credit Electric Vehicle (EV) and Fuel Cell Electric Vehicle (FCEV) Tax Credit <ul style="list-style-type: none"> Publication 5866 (10-2023) (irs.gov) Previously Owned Clean Vehicle Credit Commercial Electric Vehicle (EV) and Fuel Cell Electric Vehicle (FCEV) Tax Credit TxVEMP All-Electric Grant Program (Volkswagen Mitigation Program) 	<ul style="list-style-type: none"> As of March 2023, 40 Battery Electric Vehicles (BEV) and 33 Plug-in Hybrid Electric Vehicles (PHEV) models were for sale in the U.S.¹ General Motors (GM) was the first U.S. automaker to announce plans to end all production of gas-powered light-duty vehicles by 2035 with plans to offer 30 new EV models by mid-decade¹. Other manufacturers EV plans would lead to over 100 EV models available by end of 2024¹. <p>¹ Center of Sustainable Energy The State of Electric Vehicle Adoption in the U.S. and the Role of Incentives in Market Transformation Center for Sustainable Energy (energycenter.org)</p> <ul style="list-style-type: none"> Texas Electric Vehicle Infrastructure Plan (<i>adopted September 2023</i>) is a comprehensive framework to enable passenger EV travel across the state. Texas electric vehicle planning (txdot.gov)

TRANSPORTATION

Action 1.2: Improve Active Transportation Infrastructure

Why:	Create safe movement for residents choosing to walk, bicycle, or other non-vehicular travel. Provide safe active options that will in turn reduce vehicle usage. Social and health are just a few of the co-benefits.
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Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> KA 138 incorporate complete streets guidelines into future Mobility Plan updates following NCTCOG Bicycle and Pedestrian Advisory Committee (BPAC). Partner with developers on larger sidewalks, on-street striping of bicycle lanes and crosswalks. KA 144 increase share of pedestrian and bicycle infrastructure. Pursue pedestrian and bicycle funding and grant opportunities. KA 163 Partner and collaborate within development projects to include multi-modal features. Encourage new development to provide off-road trails and public pass-through access where appropriate and feasible to promote site connectivity. Establish easements to allow pedestrian and bicycle access through private developments. KA 194 ensure schools and community facilities are accessible via walking and bicycling. Locate school and school athletic facilities within or adjacent to neighborhood centers. 	<ul style="list-style-type: none"> Objective 1A: Safety is the number one priority for the planning, design and maintenance of all transportation infrastructure Objective 1B: Promote safe behaviors Objective 1C: Prioritize funding for safety improvements <ul style="list-style-type: none"> Strategies 1.1, 1.3, 1.4, 1.6, 1.7, and 1.8 Strategy 2.1: Establish a citywide crosswalk strategy. <ul style="list-style-type: none"> Plus 2.2, 2.4, 2.6, and 2.11 Strategy 3.12: coordinate with TxDOT to implement improved pedestrian and bicycle connectivity along roadways intersecting with TxDOT facilities, including prioritizing pedestrian and bicycle improvements Strategy 5.6: Design and improvement of pedestrian and bicycle ways in major residential, shopping and employment centers, parks, schools, other public facilities, public transportation facilities, and regional bicycle networks. Strategy 5.9: Require that new development projects improve access to and accommodations for multimodal transportation. Strategy 7.1: Update the City's engineering standards for public and private streets to provide for safe, comfortable, and attractive access and travel for pedestrians and bicyclists of all ages and abilities. Goal 8: Promote a Friendly Active Transportation System in Denton. Create a bicycle and pedestrian friendly environment throughout Denton for all types of users and all trip purposes. Strategies 8.1 through 8.25. Strategy 8.25: Establish a goal for all trips of less than three miles to be by bicycle and establish a goal of less than 1 mile to be by walking
Parks, Recreation, and Trails System Master Plan	
<ul style="list-style-type: none"> Chapter 6: Trails recommend adding 213 additional miles of trails, based on the need to connect major destinations like parks, shopping center and communities, and demand-based opportunities. 	
Simply Sustainable Framework	
<ul style="list-style-type: none"> Chapter 5: Transportation. Goal 1. Expand infrastructure for non-vehicle modes of transportation. Goal 4. Increase amount of non-road trail systems. 	

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> Denton's GreenSense Program – E-Bike Incentive Federal Highway Administration (FHWA) funding opportunities Congestion Mitigation and Air Quality Improvement (CMAQ) Program Climate Pollution Reduction Grant (CPRG) 	<ul style="list-style-type: none"> 2023 Bond, Proposition C included \$15M for Trail Development. Several master planned developments are including trail systems. NCTCOG awarded Fort Worth \$3.2M to improve safety in walking & biking routes for students to get to school.

TRANSPORTATION

Action 1.3: Encourage Walking and Biking (no emission modes)

Why: Social and health benefits from physical activity. Remove vehicle emissions for shorter trips.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • Goal M-1: Provide for the safe, efficient movement of motor vehicles, bicycles, and pedestrians in a sustainable way. • 6.4 Pursue a coordinated land use and mobility strategy to reduce motor vehicle trip lengths and reduce the need for motor vehicle trips. • 6.15 Educate residents on walking and cycling in Denton. • 6.16 Ensure that future road designs incorporate bicycle and pedestrian design features as desired and appropriate. • KA 90 - New development to create pedestrian- and bicycle-friendly places • KA 92 - New development establishes pedestrian and bicycle networks • KA 104 - Green space & multi-modal connections between developments • KA 138 incorporate complete streets following NCTCOG Bicycle and Pedestrian Advisory Committee • KA 144 increase share of pedestrian and bicycle infrastructure. • KA 160 - Ensure that bicycle and pedestrian facilities are included in the design of new roads and educate residents on walking and cycling • KA 163 Partner and collaborate within development to include multi-modal features, off-road trails and pedestrian and bicycle access. • KA 188 - Provide opportunities to improve public, safety, health, and well-being such as: Improved walkability with sidewalks in all neighborhoods, and the prioritization of “safe routes to schools” • KA 194 ensure schools & facilities are accessible via walking and bicycling. 	<ul style="list-style-type: none"> • Strategy 1.3: Culture that prioritizes safety for all modes of transportation • Strategy 2.1: Establish a citywide crosswalk strategy. • Strategy 5.6: Coordinate the design and improvement of pedestrian and bicycle ways in major residential, shopping and employment centers, parks, schools, other public facilities, and regional bicycle networks. • Strategy 7.1: Update the City’s engineering standards to provide for safe, comfortable, and attractive access and travel for pedestrians and bicyclists. <p>Goal 8: Promote a Friendly Active Transportation System in Denton. Includes Strategies 8.1 through 8.25.</p>
	Comprehensive Solid Waste Management Strategy
	10.6.2.1 Partnerships to Address Community Needs, Table 10-3 opportunity to divert bikes back into the community instead of the landfill.
	Parks, Recreation, and Trails System Master Plan
	<ul style="list-style-type: none"> • Chapter 6: Trails recommend adding 213 additional miles of trails, based on the need to connect major destinations and demand-based opportunities.
	Simply Sustainable Framework
	<ul style="list-style-type: none"> • Chapter 5: Transportation. Goal 1. Expand infrastructure for non-vehicle modes of transportation. Goal 4. Increase amount of non-road trail systems.
	Comprehensive Solid Waste Management Strategy
	10.6.2.1 Partnerships to Address Community Needs, Table 10-3 opportunity to divert bikes back into the community instead of the landfill.
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Denton’s GreenSense Program – E-Bike Incentive • Neighborhood Access and Equity Grant Program, transportation.gov • Federal Highway Administration (FHWA) funding opportunities • Congestion Mitigation and Air Quality Improvement (CMAQ) Program 	<ul style="list-style-type: none"> • Several master planned developments are including trails systems. • NCTCOG awarded Fort Worth \$3.2M to encourage more students to bike or walk to school. • Reconnecting Communities guidance – DOT Neighborhood Access & Equity (NAE) offers up to \$3.155 billion for communities across the United States. • Safe Routes to Schools

TRANSPORTATION

Action 1.4: Decrease total number of trips taken in vehicles

Why: Reduce individual vehicle emissions while hopefully adding active means of travel. Improve local air quality.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • 6.4 Pursue a coordinated land use and mobility strategy to reduce motor vehicle trip lengths and reduce the need for motor vehicle trips. • 6.15 Use the Mobility Plan, Parks, Recreation, and Trails System Master Plan and other regional plans to guide the placement of facilities and educate residents on walking and cycling in Denton. • 6.16 Ensure that future road designs incorporate bicycle and pedestrian design features as desired and appropriate. • KA 138 incorporate complete streets guidelines into future Mobility Plan updates following NCTCOG Bicycle and Pedestrian Advisory Committee (BPAC). Partner with developers on larger sidewalks, on-street striping of bicycle lanes and crosswalks. • KA 144 increase share of pedestrian and bicycle infrastructure. Pursue pedestrian and bicycle funding and grant opportunities. • KA 163 Partner and collaborate within development projects to include multi-modal features, off-road trails and public pass-through access, and pedestrian and bicycle access through private developments. • KA 194 ensure schools and community facilities are accessible via walking and bicycling. Locate school and school athletic facilities within or adjacent to neighborhood centers. 	<ul style="list-style-type: none"> • Strategy 1.3: Institutionalize a culture that prioritizes safety for all modes of transportation within the City of Denton. • Objective 4.1: Support NCTCOG trip reduction programs, including park and ride, transit subsidies, carpool and vanpool programs, flexible working hours, bicycle facilities, and other traffic reduction • Strategy 4.15: Encourage new local transit programs in coordination with DCTA, consisting of shuttle services to local and regional destinations • Strategy 5.5: Promote development of mixed-use projects to reduce number of vehicle trips • Strategy 5.6: Coordinate the design and improvement of pedestrian and bicycle ways in major residential, shopping and employment centers, parks, schools, other public facilities, public transportation facilities, and regional bicycle networks. • Strategy 7.1: Update the City's engineering standards for public and private streets to provide for safe, comfortable, and attractive access and travel for pedestrians and bicyclists of all ages and abilities. • Goal 8: Promote a Friendly Active Transportation System in Denton. Create a bicycle and pedestrian friendly environment throughout Denton for all types of users and all trip purposes. Strategies 8.1 through 8.25.
Parks, Recreation, and Trails System Master Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> • Chapter 6: Trails recommend adding 213 additional miles of trails, based on the need to connect major destinations like parks, shopping center and communities, and demand-based opportunities. 	<ul style="list-style-type: none"> • Chapter 5: Transportation. Goal 1. Expand infrastructure for non-vehicle modes of transportation. Goal 2. Promote public transportation ridership. Goal 4. Increase amount of non-road trail systems.
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Denton's GreenSense Program – E-Bike Incentive • Neighborhood Access and Equity Grant Program, transportation.gov • Federal Highway Administration (FHWA) funding opportunities • Congestion Mitigation and Air Quality Improvement (CMAQ) Program 	<ul style="list-style-type: none"> • Several master planned developments are including trails systems and multi-use areas for access to retail, office, etc. • Engagement with the Blue Zones Project. • Reconnecting Communities guidance – DOT Neighborhood Access & Equity (NAE) offers up to \$3.155 billion for communities across the United States.

TRANSPORTATION

Action 1.5: Facilitate Installation of Green Hydrogen Fueling Station

Why:	Hydrogen is predicted to a key part long haul freight transportation. Ensure long haul freight has access to hydrogen fuel to allow this new technology to be used within Denton.
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Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • No reference 	<ul style="list-style-type: none"> • No reference.
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> • No reference. 	<ul style="list-style-type: none"> • No reference.

Simply Sustainable Framework

Chapter 5: Transportation. Goal 2. Promote the use of alternative fuel vehicles.

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Alternative Fuel Infrastructure Tax Credit • NCTCOG Grant for 5 Hydrogen Fueling Stations with 2 in the DFW region. • DOE Energy Efficiency Savings Program • DOE Qualified Commercial Clean Vehicles Credit 	<ul style="list-style-type: none"> • Independent trucking operators may not access to green hydrogen fueling infrastructure. • Long haul freight research is showing hydrogen may be the preferred fuel source. EV presents weight challenges currently.

BUILDINGS

Action 2.1: Encourage energy efficiency upgrades (existing buildings)

Why: Reduce energy costs through reduce demand in the building as well as reduced demand on the distribution system.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> • KA 130 – Explore green building standards. • KA 132 – Create guidelines and incentives for use of Energy Star certified products in commercial and residential remodels. • KA 135 – Require that all commercial buildings, including City buildings comply with standards for reduced energy consumption. • KA 221 – Continue purchase policy for municipal lighting fixtures that are energy efficient. 	<ul style="list-style-type: none"> • Chapter 3: Energy Conservation and Efficiency. Goal 2. Encourage energy conservation and efficiency in new and existing homes and businesses. Goal 3. Ensure efficient energy use in city government facilities through demand reduction in both new construction and building retrofits.
Denton 2022 Mobility Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> • No reference. 	<ul style="list-style-type: none"> • No reference.
Parks, Recreation, and Trails System Master Plan	
Ref. No. 5.3.4: Continue to research and implement best practices and equipment that are eco-friendly while also being efficient and effective in the work environment.	
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Denton’s GreenSense Program • Energy Efficiency and Conservation Block Grants • DOE Home Energy Rebate Programs Home Energy Rebates Department of Energy (Electrification, Appliance, Efficiency) 	<ul style="list-style-type: none"> • DDC has adopted the 2021 IECC and is reviewing the 2024 IECC.

BUILDINGS

Action 2.2: Encourage Reduction in Overall Energy Consumption

Why: Reduce energy costs through reduce demand in the actual building as well as reduced demand on the distribution system.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan		Simply Sustainable Framework	
<ul style="list-style-type: none">• KA 130 – Explore green building standards.• KA 132 – Create guidelines and incentives for use of Energy Star certified products in commercial and residential remodels.• KA 135 – Require that all commercial buildings, including City buildings comply with standards for reduced energy consumption.• KA 221 – Continue purchase policy for municipal lighting fixtures that are energy efficient.		<ul style="list-style-type: none">• Chapter 3: Energy Conservation and Efficiency. Goal 2. Encourage energy conservation and efficiency in new and existing homes and businesses. Goal 3. Ensure efficient energy use in city government facilities through demand reduction in both new construction and building retrofits.	
Parks, Recreation, and Trails System Master Plan		Comprehensive Solid Waste Management Strategy	
<ul style="list-style-type: none">• No reference.		<ul style="list-style-type: none">• No reference.	
Denton 2022 Mobility Plan			
No reference.			
Other Resources			
Local/State/Federal Incentives		Market Assessment	
<ul style="list-style-type: none">• Denton’s GreenSense Program		<ul style="list-style-type: none">• DDC has adopted the 2021 IECC and is reviewing the 2024 IECC.	

BUILDINGS

Action 2.3: Encourage Very High Energy Efficiency Standard (new buildings)

Why: Reduce energy costs through reduce demand in the actual building as well as reduced demand on the distribution system.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> • KA 130 – Explore green building standards for new residential and commercial construction using GreenBuilt™ Texas as a standard. • KA 132 – Create guidelines and incentives for use of Energy Star certified products in commercial and residential remodels. • KA 135 – Require that all commercial buildings, including City buildings comply with standards for reduced energy consumption. • KA 221 – Continue purchase policy for municipal lighting fixtures that are energy efficient. 	<ul style="list-style-type: none"> • Chapter 3: Energy Conservation and Efficiency. Goal 2. Encourage energy conservation and efficiency in new and existing homes and businesses. Goal 3. Ensure efficient energy use in city government facilities through demand reduction in both new construction and building retrofits.
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> • No reference. 	<ul style="list-style-type: none"> • No reference.
Denton 2040 Mobility Plan	
No reference.	
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Denton's GreenSense Program • DOE Efficient Home Design resources • About the Home Energy Score Better Buildings Initiative • Energy Savings Hub Energy Savings Hub Department of Energy 	<ul style="list-style-type: none"> • Denton has adopted the 2021 IECC and is reviewing the 2024 IECC. • The 2024 IECC will start from the content of the 2021 IECC, building on prior successes including an increase of efficiency requirements by about 40%, or an average of 8% a cycle from 2006 to 2021, allowing the IECC to remain a strong avenue for communities to reach their energy efficiency and sustainability goals globally (2021 IECC 9.4% increase over 2018). New code release on 3yr cycle • DOE Energy Efficiency savings

BUILDINGS

Action 2.4: Encourage Zero-Emission Systems in buildings

Why: Reduce energy costs through reduce demand in the actual building as well as reduced demand on the distribution system.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> KA 130 – Explore green building standards for new residential and commercial construction using GreenBuilt™ Texas as a standard. KA 132 – Create guidelines and incentives for use of Energy Star certified products in commercial and residential remodels. KA 135 – Require that all commercial buildings, including City buildings comply with standards for reduced energy consumption. KA 221 – Continue purchase policy for municipal lighting fixtures that are energy efficient. 	<ul style="list-style-type: none"> Chapter 3: Energy Conservation and Efficiency. Goal 2. Encourage energy conservation and efficiency in new and existing homes and businesses. Goal 3. Ensure efficient energy use in city government facilities through demand reduction in both new construction and building retrofits.
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> No reference. 	<ul style="list-style-type: none"> No reference.
Denton 2040 Mobility Plan	
No reference	
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> Denton's GreenSense Program Zero Emissions Framework National Definition for a Zero Emissions Building Department of Energy 	<ul style="list-style-type: none"> DDC has adopted the 2021 IECC and is reviewing the 2024 IECC. Zero Energy Buildings Market Research, 2031. The global zero energy buildings market size was valued at \$71.7 billion in 2021, and is projected to reach \$403 billion by 2031, growing at a CAGR of 18.7% from 2022 to 2031.

BUILDING

Action 2.5: Reduce Waste produced per capita

Why: Extend life of landfill, control collection costs, and reduce disposal and collection emissions.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • 5.12.1 Incorporate actions for Waste Minimization and Resource Recovery 	<ul style="list-style-type: none"> • No reference.
Simply Sustainable Framework	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> • Chapter 7: Material Resource Management. Goal 1. Reduce solid waste generation. • Promote conscious consumerism/waste minimization in the City of Denton. 	<ul style="list-style-type: none"> • Enhance Education, Outreach, and Compliance Rec #1 – Track and report waste reduction.
Parks, Recreation, and Trails System Master Plan	
No reference.	
Other Resources	
Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • TCEQ Regional Solid Waste Grants Program • EPA's WasteWise program 	<ul style="list-style-type: none"> • EPA Waste Reduction Model (WARM) • Reducing Waste: What You Can Do US EPA

BUILDING

Action 2.6: Increase Waste Diversion (recycling, composting, etc.)

Why: Extend landfill life expectancy and reduce impact on raw materials.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> 5.12.1 Incorporate actions for Waste Minimization and Resource Recovery 	<ul style="list-style-type: none"> Implement Innovative Organics Management <ul style="list-style-type: none"> Rec #1: Pilot commercial organics composting or co-digestion at Pecan Creek WRP. Rec #2: Increase education and outreach and technical assistance for source reduction and diversion of food waste Efficiently Use Landfill Capacity <ul style="list-style-type: none"> Rec #2: Adequately fund diversion programs Rec #3: Use disposal contract rates to preserve airspace by incentivizing diversion in surrounding communities Plan for Future Growth and Infrastructure <ul style="list-style-type: none"> Rec #3: Encourage decreased contamination, increased recycling participation and diversion, and standardized services in the multifamily and commercial sectors Rec #4: Support C&D recycling and reuse in the region Optimize Recycling Processing <ul style="list-style-type: none"> Rec #1: Target key challenging materials in the MRF recycling stream to increase diversion Rec #3: Explore contract options that include a regional recycling approach for 2028 and beyond Support New Markets and Leverage Partnerships <ul style="list-style-type: none"> Rec #1: Continue coordination with other City departments to increase diversion Rec #2: Coordinate with local entities to meet community needs through diversion Rec #3: Continue and expand partnerships with local universities to raise awareness of reuse and recycling
Denton 2022 Mobility Plan	
<ul style="list-style-type: none"> No reference. 	
Parks, Recreation, and Trails System Master Plan	
<ul style="list-style-type: none"> No reference. 	
Simply Sustainable Framework	
<ul style="list-style-type: none"> Chapter 7: Material Resource Management. <ul style="list-style-type: none"> Goal 1. Divert waste away from landfill disposal through increased recycling and reuse options. Strategy #3: Divert Solid Waste from Landfill through Recycling Continue to explore additional food waste diversion opportunities 	

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> TCEQ Regional Solid Waste Grants Program EPA's WasteWise program. 	<ul style="list-style-type: none"> Texas Recycling Market Development Plan Recycling Market Development Plan (texas.gov) The Bipartisan Infrastructure Law: Transforming U.S. Recycling and Waste Management US EPA Facts and Figures about Materials, Waste and Recycling US EPA

BUILDING

Action 2.7: Maximize Organic Diversion for Renewable Natural Gas

Why: Renewable Natural Gas offsets the environmentally impact from Natural Gas usage.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • 5.12.1 Incorporate actions for Waste Minimization and Resource Recovery • KA 257: Educate the community about compost gardens. 	<ul style="list-style-type: none"> • No reference.
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> • No reference. 	<ul style="list-style-type: none"> • Implement Innovative Organics Management <ul style="list-style-type: none"> Rec #1: Pilot commercial organics composting or co-digestion at Pecan Creek WRP. Rec #2: Increase education and outreach and technical assistance for source reduction and diversion of food waste • Support New Markets and Leverage Partnerships <ul style="list-style-type: none"> Rec #2: Coordinate with local entities to meet community needs through diversion

Simply Sustainable Framework

- Chapter 7: Material Resource Management.
 - Goal 1. Reduce solid waste generation.
 - Promote conscious consumerism/waste minimization in the City of Denton.

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • TCEQ Regional Solid Waste Grants Program • Natural Gas Distribution Infrastructure Safety and Modernization Grants. • The EPA has a Landfill Methane Outreach Program to provide incentives, tax credits/exemptions, grants, etc. for landfill methane production https://www.epa.gov/lmop/resources-funding-landfill-gas-energy-projects 	<ul style="list-style-type: none"> • Renewable Natural Gas (RNG) opportunities and benefits • Pipeline Injection, on-site use • An Introduction to Renewable Natural Gas" (epa.gov) • An Overview of Renewable Natural Gas from Biogas (epa.gov)

BUILDING

Action 2.8: Reduce Water Consumption

Why:	Reduce water costs through reduce demand by the building as well as reduced demand on the distribution system and extend the useful life of today's water resources.
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Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	City of Denton Water Conservation Plan
<ul style="list-style-type: none"> • 9.6: Reduce per capita water use to ensure adequate water supply • KA 231: Continue to implement the Denton Water Conservation and Drought Contingency Plan to help reduce per capita water use. • KA 233: Encourage community members to employ best management practices for water reduction such as use of landscape irrigation improvements. • KA 243: Implement a targeted educational program on the benefits of wastewater effluent reuse to high-volume users. Engage in long-term partnerships that implement wastewater effluent reuse. Expand and promote the capabilities of providing effluent to the industrial and commercial sectors as well as parks and golf courses for irrigation purposes. • KA 245: Continue to invest in expanded effluent use to industrial and commercial uses, and parks and golf courses for irrigation purposes that will significantly reduce the use of potable water for non-potable purposes. 	<ul style="list-style-type: none"> • 3.3: Goal of 130 gallons per capita per day by 2050. • 3.6 Public Education and Information; Partnerships with Non-Profits: The continuing public education and information campaign and the partnerships with Non-Profit organizations on water conservation include: promoting the City's water conservation measures, enforcement of mandatory twice-a-week watering schedule for landscape, including inserts on water conservation with water bills at least twice per year, and more. • 3.7 Non-Promotional Water Rate Structure: with the intent of encouraging water conservation and discouraging waste and excessive use of water, the City of Denton has adopted the inverted-block rate structure year-round. • 5.3 Landscape Management Ordinance: This ordinance is intended to minimize waste in landscape irrigation and other uses.

Parks, Recreation, and Trails System Master Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> • Appendix G: Irrigation System, Provide a sustainable, well-maintained and water-efficient system for irrigating grounds to ensure high quality surfaces and playing experiences. 	<ul style="list-style-type: none"> • Chapter 1: Water. Goal 5. Take measure to encourage reductions in per capita water consumption. Strategy #5: Promote Water Conservation. • Chapter 4: Land Use and Open/Natural Space. Goal 3. Minimize water use

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Local incentive programs– (City of Corinth incentive program, City of Plano Water conservation rebates, City of Lewisville Residential water conservation credit program, Chandler AZ) • Landscape, Irrigation, and Outdoor Water Use Alliance for Water Efficiency • EPA water sense lookforwatersense.epa.gov/rebates/ 	<ul style="list-style-type: none"> • Texas Water Foundation - Water Infrastructure Funding Database — Texas Water Foundation • The Texas Water Development Board Has an Opportunity to Increase Reduce Resilience and Equity In Next Round of Funding – Texas Living Waters Project

LAND USE

Action 3.1: Enhance Access to Necessities (compact / walkable communities)

Why: Reduce number and distance of car trips, increase active transportation opportunities, reduce emissions, and benefit health

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> • KA 3 – Create Area Plans to implement mixed-use zoning districts. Encourage and incentivize area plans that promote multi-modal transportation and walkability. • KA7 – Update Downtown Implementation Plan to target residential development, including affordable housing through adaptive re-use, use of upper stories, and infill development/redevelopment. • KA 18 – Identify areas of infill development/redevelopment potential within established neighborhoods. • KA 31 – Incentivize mixed-use projects that provide flexible space for commercial, office, and residential use. • KA 32 – Evaluate need for standards to encourage infill and redevelopment and remove growth impediments. • KA 46 – Encourage more dense development. • KA 87 – Enhance zoning to include public gathering space within mixed use developments and centers. • KA 163 - Partner and collaborate within development projects to include multi-modal features, off-road trails and public pass-through access, and pedestrian and bicycle access through private developments. • KA 170 - Create regulatory incentives to expand housing in and adjacent to downtown through adaptive re-use, utilization of upper stories and infill development/redevelopment • KA 171 - Work with developers to increase stock of owner-occupied smaller residential units 	<ul style="list-style-type: none"> • Strategy 4.8: Encourage the integration of compatible land uses and housing into major development projects to reduce vehicle use. • Strategy 4.13: Encourage new development along major transit corridors to provide efficient and safe access to transit spots and public sidewalks • Strategy 5.5: Promote development of mixed-use projects to reduce number of vehicle trips • Strategy 8.16: Designate walkable districts in the City
	Comprehensive Solid Waste Management Strategy
	<ul style="list-style-type: none"> • No reference.
	Parks, Recreation, and Trails System Master Plan
	<ul style="list-style-type: none"> • No reference.
	Simply Sustainable Framework
	<ul style="list-style-type: none"> • Chapter 4: Land Use and Open/Natural Space – Goal 1 - Encourage land use and code/zoning patterns that positively affect energy use and environment. Goal 4 - Encourage redevelopment of infill area n brownfield sites. Strategy 5 – Promote Mixed-Use Compact Development in targeted areas.

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> • Surface transportation Block Grant Program • Neighborhood Access and Equity Grant Program • U.S. Department of Transportation funding opportunities. 	<ul style="list-style-type: none"> • USDOT funding - Active Transportation Infrastructure Investment Program (ATIIP) US Department of Transportation.

LAND USE

Action 3.2: Produce Renewable Natural Gas from Landfill

Why: Reduce local greenhouse gas emissions. Local air quality benefits. Fuel diversity.

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Denton 2022 Mobility Plan
<ul style="list-style-type: none"> KA 271 – Develop initiative to improve gas-generated from the landfill. 	<ul style="list-style-type: none"> No reference
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> No reference. 	<ul style="list-style-type: none"> Implement Innovative Organics Management Rec #1: Consider master study of wastewater and organics management needs to coordinate infrastructure upgrades, new programs, and staffing needs

Simply Sustainable Framework

Chapter 2, Strategy #1 – Implement Sustainable Municipal Fleet Program

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> Natural Gas Distribution Infrastructure Safety and Modernization Grants The EPA has a Landfill Methane Outreach Program to provide incentives, tax credits/exemptions, grants, etc. for landfill methane production https://www.epa.gov/lmop/resources-funding-landfill-gas-energy-projects 	<ul style="list-style-type: none"> Renewable Natural Gas (RNG) opportunities and benefits Pipeline Injection, on-site use An Introduction to Renewable Natural Gas” (epa.gov) An Overview of Renewable Natural Gas from Biogas (epa.gov) Solid Waste & Recycling Department (SWR) is currently reviewing RFPs to recommend vendor to setup the RNG plant at the landfill.

LAND USE

Action 3.3: Increase Local, Renewable Energy Generation Capacity

Why: Reduce transmission loss, increase resiliency, and assist with peak demand

Alignment with Adopted City of Denton Plans (refer to actual Plan for further details)

Denton 2040 Comprehensive Plan	Simply Sustainable Framework
<ul style="list-style-type: none"> 5.11 – Ensure that renewable energy actions are an element of the sustainability framework for the City and a basis for an updated Sustainability Plan 	<ul style="list-style-type: none"> Chapter 3, Energy Conservation and Efficiency: Continue to research and pursue on-site power generation and other renewable technologies.
Parks, Recreation, and Trails System Master Plan	Comprehensive Solid Waste Management Strategy
<ul style="list-style-type: none"> No reference. 	<ul style="list-style-type: none"> No reference.
Denton 2040 Mobility Plan	
No reference.	

Other Resources

Local/State/Federal Incentives	Market Assessment
<ul style="list-style-type: none"> City of Denton: SolSmart Gold Level Designation Federal Tax incentives Natural Gas Distribution Infrastructure Safety and Modernization Grants 	<ul style="list-style-type: none"> National Renewable Energy Lab reports rooftop solar installed costs were \$8.70 per watt in 2010 and \$3.16 per watt in 2022 (approx. 64% reduction). Payback periods depend on system and energy prices in the place and at the time a customer purchases a system. However, estimates of payback periods from case studies such as this one from the National Renewable Energy Laboratory (NREL) generally range from 8-10 years: “Case Study: Rooftop Solar Potential Analysis for Orlando Utilities Commission”. https://ecogenamerica.com/solar-panel-payback-exas/#:~:text=In%20Texas%2C%20the%20average%20time,when%20investing%20in%20solar%20energy. Accessed September 5, 2023.

Proposed Measures

SECTOR	ACTION #	ACTION	MEASURES
Transportation	1.1	Decarbonize fleet (all sources)	# of EV registrations within Denton
			# of Non-EV registrations within Denton
			# of EV within City light-duty fleet
			# of decarbonized vehicles within City heavy-duty fleet
			# of non-road EV / electric equipment within City inventory
			Availability of alternative fuel sources (e.g., EV Charging)
Transportation	1.2	Improve Active Transportation Infrastructure	Miles of Trails
			Miles of Sidewalks
			Miles of Bike Lanes
			Miles of Bike Side Paths
Transportation	1.3	Encourage Walking and Biking (no emission modes)	# of bike spaces available (retail, restaurants, multi-use areas, etc.)
			# of events involving walking or biking
			# of website visits
			Participants attending alternative transportation outreach events
			Other no emission modes
Transportation	1.4	Decrease total number of trips taken in vehicles	TryParkingIt.com participants within Denton
			DCTA Ridership
Transportation	1.5	Facilitate Installation of Green Hydrogen Fueling Station	Engage with NCTCOG grant for locations (2 in DFW Area)
			Engage with existing Truck Stops for hydrogen awareness
Buildings	2.1	Encourage energy efficiency upgrades (existing bldgs.)	# of HVAC upgrades
			# of Insulation upgrades
			# of Window/Door upgrades
			# of Energy Audits
			GreenSense Incentives
Buildings	2.2	Encourage Reduction in Overall Energy Consumption	Community-wide electric usage (annual)
			Community-wide natural gas usage (annual)
			City facility electric usage (annual)
			City facility natural gas usage (annual)
Buildings	2.3	Encourage Very High Energy Efficiency Standard (new bldgs.)	# of buildings self reporting to meet the Very High Energy Efficiency Standard
			# of participants in Very High Energy Efficiency Standard outreach events
Buildings	2.4	Encourage Zero-Emission Systems in buildings	# of heat pump installations
			GreenSense Incentives for Heat Pumps
			# of buildings self reporting to have Zero-Emission Systems
Buildings	2.5	Reduce Waste produced per capita	Waste produced per capita
			- Residential
			- Commercial

SECTOR	ACTION #	ACTION	MEASURES
Buildings	2.6	Increase waste diversion (recycling, composting, etc.)	% of Residential waste diverted
			% of Commercial waste diverted
			% of Debris from construction diverted
			# of households composting
Buildings	2.7	Maximize Organic Diversion for Renewable Natural Gas (RNG)	Amount of organics being accepted
			# of participants in Organics Diversion
Buildings	2.8	Reduce water consumption	Potable water usage per capita
			Reclaimed water usage
			Water loss in system leaks
Land Use	3.1	Enhance Access to Necessities (walkable communities)	10-minute walk to Park
			% of new Multifamily Units (e.g., duplex, triplex, townhouse, apartment, condominium)
			# of Mixed use developments
			Walkability conditions within approvals that are not allowed by right
			Walking/Biking/Density within Master Planned Developments (MPD)
Land Use	3.2	Produce Renewable Natural Gas from Landfill	Amount of RNG produced by Landfill
Land Use	3.3	Increase local, renewable energy generation capacity	# of solar installations and capacity installed
			# of wind turbine installations and capacity installed
			Renewable generation capacity vs. peak demand (% offset)
			Continue or improve SolSmart Gold Level Designation



City of Denton

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

Legislation Text

File #: ID 23-2045, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton determining the public use, need and necessity for the acquisition of approximately of 2.151 acres of land located along Hercules Lane, in B.B.B. and C.R.R Company Survey, Abstract Number 186, City and County of Denton, Texas being all of Lot 1R-2 in Block 1 of T.N.B.C., in the City of Denton, Denton County, Texas, according to the plat recorded under Document No. 2024-52 of the (P.R.D.C.T.) Plat Records, Denton County, Texas; for the purpose of a future park land; authorizing the expenditure of funds not to exceed Three Hundred Ninety-Five Thousand Dollars and No/100 (\$395,000.00) and associated closing costs; and providing for severability and an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Development Services, Real Estate

ACM: Cassandra Ogden

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton determining the public use, need and necessity for the acquisition of approximately of 2.151 acres of land located along Hercules Lane, in B.B.B. and C.R.R Company Survey, Abstract Number 186, City and County of Denton, Texas being all of Lot 1R-2 in Block 1 of T.N.B.C. in the City of Denton, Denton County, Texas, according to the plat recorded under Document No. 2024-52 of the (P.R.D.C.T.) Plat Records, Denton County, Texas; for the purpose of a future park land; authorizing the expenditure of funds not to exceed Three Hundred Ninety-Five Thousand Dollars and No/100 (\$395,000.00) and associated closing costs; and providing for severability and an effective date.

BACKGROUND

In a Closed Meeting on November 14, 2023, the Parks and Recreation Department expressed an interest in purchasing approximately 2.151 acres of land off Hercules Lane owned by the Towne North Baptist Church INC. At this meeting, the Council directed staff to conduct preliminary due diligence and to purchase the land for future open space as a neighborhood park.

A master plan for the property would be conducted to outline future improvements to the park. Staff envisions a loop trail around the perimeter of the park, playground, and water fountain. If this land is acquired, the 10-Minute walk score will be elevated by .08% with an increase to an additional 1,210 residents. In addition, new apartments are planned to be constructed in this ½ mile radius which will eventually increase the overall percentage score.

An independent appraisal was conducted and the City and Towne North Baptist Church agreed to the purchase price of \$395,000.00 plus associated closing costs.

If a Council member determines that he or she has a conflict of interest pursuant to the Ethics Ordinance, he or she may contact the City Attorney's Office to have a Recusal Form prepared prior to consideration of this agenda item.

OPTIONS

1. Approve proposed ordinance
2. Decline to approve proposed ordinance

RECOMMENDATION

Staff recommends approval of the ordinance.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

November 14, 2023- Closed Meeting (23-1978)

FISCAL INFORMATION

Funding for the acquisition of this parcel is available in the park dedication (915) fund.

EXHIBITS

Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Location Map

Exhibit 3 - Ordinance

Respectfully submitted:
DeAnna Cody, Deputy Director
Development Services-Real Estate



Hercules Ln

Hercules Ln

Hercules Ln

Hercules Ln

SUBJECT

Meadow Ln

Reach Church Denton

Denton Academy
of Martial Arts

Atlas Dr

Sun Valley Dr

HH-Contractors

Plum Hollow St

Shadow Trail

Retama St

Valley View Rd

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON DETERMINING THE PUBLIC USE, NEED AND NECESSITY FOR THE ACQUISITION OF APPROXIMATELY 2.151 ACRES OF LAND LOCATED ALONG HERCULES LANE, IN B.B.B. AND C.R.R COMPANY SURVEY, ABSTRACT NUMBER 186, CITY AND COUNTY OF DENTON, TEXAS BEING ALL OF LOT 1R-2 IN BLOCK 1 OF T.N.B.C. IN THE CITY OF DENTON, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED UNDER DOCUMENT NO. 2024-52 OF THE (P.R.D.C.T.) PLAT RECORDS, DENTON COUNTY, TEXAS; FOR THE PURPOSE OF A FUTURE PARK LAND; AUTHORIZING THE EXPENDITURE OF FUNDS NOT TO EXCEED THREE HUNDRED NINETY-FIVE THOUSAND DOLLARS AND NO/100 (\$395,000.00) AND ASSOCIATED CLOSING COSTS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has identified approximately 2.151 acres of land located along Hercules Lane, in B.B.B. and C.R.R Company, Survey, Abstract Number 186, city and county of Denton, Texas (“Property”), more particularly described in Exhibit A, owned by Towne North Baptist Church INC, Denton, Texas (“Owner”) that will allow for future parkland to serve the additional needs in response to increased public trails and park playground to this portion of the City; and

WHEREAS, the City of Denton (“City”) after consideration of this matter, has determined that a public use and necessity exists for, and that the public welfare and convenience requires, the Fee Simple acquisition of the Property subject to the exceptions, reservations, covenants, conditions and/or interests, if any, provided in the form instrument more particularly described in Exhibit "B" attached hereto and made a part hereof for all purposes (“Property Interests”); and

WHEREAS, City Council finds that the acquisition of the Property is a valid public use necessary to provide parkland needed to acquire open space of the Trust for public land 10-minute walk mapping resulting from future growth and planned development in the City (the “Project”), and to serve the public and the citizens of the City; and

WHEREAS, the City has obtained an appraisal by a qualified independent appraiser who is not an employee of the City in accordance with Section 252.051 of the Texas Local Government Code and conducted its due diligence to determine the environmental condition of the property and desires to accept fee simple title to the property for future public uses; and

WHEREAS, the City has agreed with the Owner of the Property, off Hercules Lane, Denton, Tx 76210, to pay a purchase price of \$395,000.00 and associated closing costs to acquire real property and authorizing its purchase together shall not exceed the authorized amount for public use; and NOW, THEREFORE

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings set forth in the preamble of this Ordinance are incorporated by reference into the body of this Ordinance as if fully set forth herein.

SECTION 2. That public necessity requires that City acquire the Property Interest in the Property for the Project.

SECTION 3. That the City Manager, or designee, is hereby authorized and directed to consummate and accept the purchase, grant and conveyance to the City of the Property Interest in and to the Property pursuant to the conveyancing instrument substantially in the form described in Exhibit “B”, attached hereto and made a part hereof for all purposes, and approved as to form by the City Attorney and to execute, deliver and receive such other usual and customary documents necessary, appropriate and convenient to consummating this transaction.

SECTION 4. City Manager, or designee, is hereby authorized to expend funds not to exceed Three Hundred Ninety-Five Thousand Dollars And No/100 (\$395,000.00) and associated closing costs.

SECTION 5. The Owner has been provided with a copy of the Landowner’s Bill of Rights, as contemplated by applicable state statute.

SECTION 6. If any section, article, paragraph, sentence, phrase, clause, 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 portions of this ordinance; the City Council declares that it would have ordained such remaining portion despite such invalidity, and such remaining portion shall remain in full force and effect.

SECTION 7. This ordinance shall become effective immediately upon its passage and approval.

[Signatures to appear on the following page.]

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:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Benjamin N. Samples, II

EXHIBIT A

(2.151 acres of land)

SURVEY PLAT



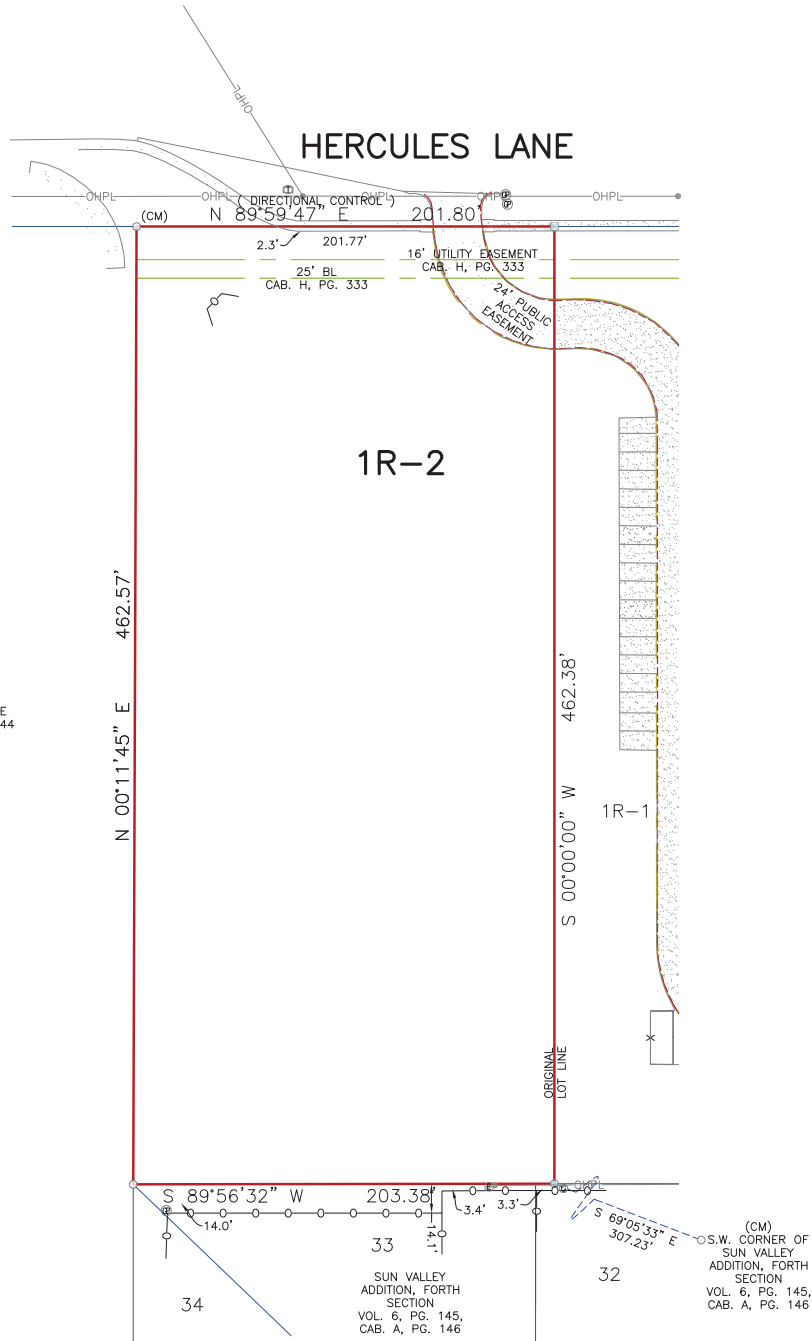
BARRY S. RHODES Registered Professional Land Surveyor (214) 326-1090

This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at
526 HERCULES LANE in the City of DENTON Texas.

Being 1R-2, Block 1, T.N.B.C. Addition, an addition to the City of Denton, Denton County, Texas,
according to the map or plat thereof recorded under Document No. 2024-52 of the Plat Records of
Denton County, Texas.



REPLAT OF
COOPER
CROSSING
SECTION ONE
CAB. E, PG. 44



ACCEPTED BY: _____



PROPERTY SUBJECT TO
EASEMENTS & RESTRICTIONS
Document No. 2024-52

The plat hereon is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat; the size, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and apparent easements. TITLE AND ABSTRACTING WORK FURNISHED BY FRANCIS COLONIAL TITLE

THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.
Scale: 1" = 20'
Date: 6/27/2024
G. F. No.: 2024-FCTL-1300
Job no.: 202404904
Drawn by: CMR

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHER FOR ANY LOSS RESULTING THEREFROM.
THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR FRANCIS COLONIAL TITLE

LEGEND	
WOOD FENCE	--- IRON FENCE ---
CHAIN LINK	-O- WIRE FENCE -X-
BOUNDARY LINE	--- EASEMENT SETBACK ---
CM	- CONTROLLING MONUMENT
MPO	- MONUMENTS OF RECORD DIGNITY
1/2" IRON ROD FOUND	
1/2" YELLOW-CAPPED IRON ROD SET	
SET "X" FOUND "X"	
3/8" IRON ROD FOUND	
1/2" IRON PIPE FOUND	
POINT FOR CORNER	- ELECTRIC METER
PIPE	- GAS PIPELINE MARKER
CABLE	- ELECTRIC
CLEAN OUT	- POOL EQUIP
GAS METER	- POWER POLE
FIRE HYDRANT	- TELEPHONE
LIGHT POLE	- WATER METER
MANHOLE	- WATER VALVE
(UNLESS OTHERWISE NOTED)	



Barry S. Rhodes

EXHIBIT B
(Special Warranty Deed)

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

STATE OF TEXAS §

COUNTY OF DENTON § KNOW ALL MEN BY THESE PRESENTS

That TOWNE NORTH BAPTIST CHURCH, DENTON, TX (herein called "Grantor"), whose address is 526 Teasley Ln Denton, TX 76210, for and in consideration of the sum of THREE HUNDRED NINETY-FIVE THOUSAND DOLLARS AND NO/100 (\$395,000.00), and other good and valuable consideration to Grantor in hand paid by the City of Denton, a Texas Home Rule Municipal Corporation (herein called "Grantee"), 215 E. McKinney, Denton, Texas 76201, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, SOLD, and CONVEYED, and by these presents does GRANT, SELL, and CONVEY, unto Grantee all the real property containing 2.151 acres of land located along Hercules Lane, in B.B.B. and C.R.R Company, Survey, Abstract Number 186 in Denton County, Texas being particularly described on Exhibit "A," attached hereto and made a part hereof for all purposes, and being located in Denton County, Texas, together with any and all rights or interests of Grantor in and to adjacent streets, alleys, and rights of way and together with all and singular the improvements and fixtures thereon and all other rights and appurtenances thereto (collectively, the "Property").

Grantor, subject to the limitation of such reservation made herein, reserves, for itself, its heirs, devisees, successors, and assigns all oil, gas, and other minerals in, on, and under and that may be produced from the Property. Grantor, its heirs, devisees, successors, and assigns shall not have the right to use or access the surface of the Property, in any way, manner, or form, in connection with or related to the reserved oil, gas, and other minerals and/or related to exploration and/or production of the oil, gas, and other minerals reserved herein, including without limitation, use or access of the surface of the Property for the location of any well or drill sites, well bores,

whether vertical or any deviation from vertical, water wells, pit areas, seismic activities, tanks or tank batteries, pipelines, roads, electricity or other utility infrastructure, and/or for subjacent or lateral support for any surface facilities or well bores, or any other infrastructure or improvement of any kind or type in connection with or related to the reserved oil, gas, and other minerals, and/or related to the exploration or production of same.

As used herein, the term “other minerals” shall include oil, gas, and all associated hydrocarbons and shall exclude (i) all substances that any reasonable extraction, mining, or other exploration and/or production method, operation, process, or procedure would consume, deplete, or destroy the surface of the Property; and (ii) all substances which are at or near the surface of the Property. The intent of the parties hereto is that the meaning of the term “other minerals” as utilized herein, shall be in accordance with that set forth in *Reed v. Wylie*, 597 S.W.2d 743 (Tex. 1980).

As used herein, the term “surface of the Property” shall include the area from the surface of the earth to a depth of five hundred feet (500’) below the surface of the earth and all areas above the surface of the earth.

Grantor hereby assigns to Grantee, without recourse or representation, any and all claims and causes of action that Grantor may have for or related to any defects in, or injury to, the Property.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee and Grantee’s successors and assigns forever; and Grantor does hereby bind Grantor and Grantor’s successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee and Grantee’s successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Grantor but not otherwise.

EXECUTED the _____ day of _____, 2024.

GRANTOR:

BY: _____

ACKNOWLEDGMENT

THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2024 by
_____ on behalf of _____.

Notary Public, State of Texas
My commission expires: _____

Upon Filing Return To:
City of Denton
Real Estate Division
401 N. Elm Street
Denton, TX 76201
Attn: Captoria Brown

Property Tax Bills To:
City of Denton Finance Department
215 E. McKinney Street
Denton, Texas 76201

Exhibit “A”
To
Special Warranty Deed
Legal Description

SURVEY PLAT



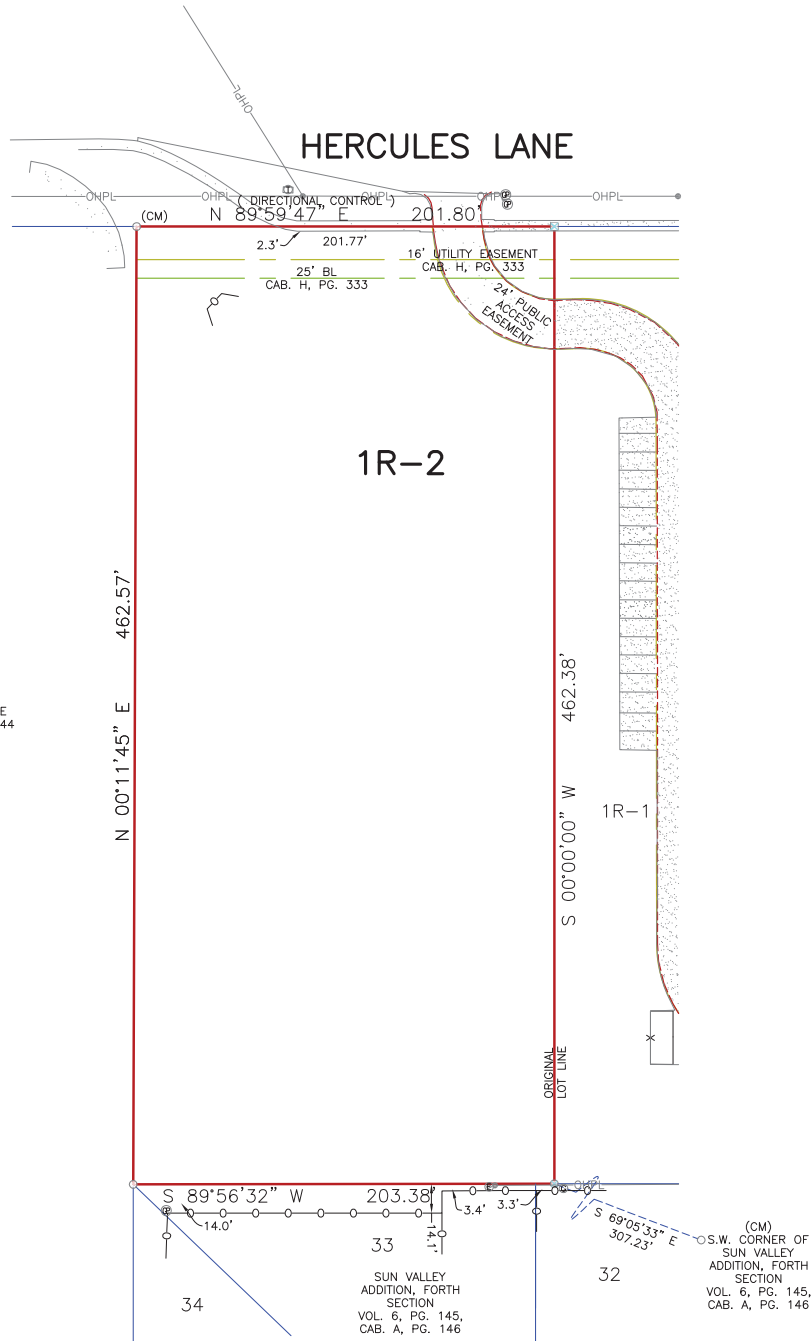
BARRY S. RHODES Registered Professional Land Surveyor (214) 326-1090

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Being 1R-2, Block 1, T.N.B.C. Addition, an addition to the City of Denton, Denton County, Texas,
according to the map or plat thereof recorded under Document No. 2024-52 of the Plat Records of
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REPLAT OF
COOPER
CROSSING
SECTION ONE
CAB. E, PG. 44



ACCEPTED BY: _____



PROPERTY SUBJECT TO
EASEMENTS & RESTRICTIONS
Document No. 2024-52

The plat hereon is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat; the size, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and apparent easements.

TITLE AND ABSTRACTING WORK FURNISHED BY FRANCIS COLONIAL TITLE

THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.

Scale: 1" = 20'

Date: 6/27/2024

G. F. No.: 2024-FCTL-1300

Job no.: 202404904

Drawn by: CMR

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHER FOR ANY LOSS RESULTING THEREFROM.

THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR FRANCIS COLONIAL TITLE

LEGEND	
WOOD FENCE	--- IRON FENCE ---
CHAIN LINK	-O- WIRE FENCE -X-
BOUNDARY LINE	--- EASEMENT SETBACK ---
CM	- CONTROLLING MONUMENT
MWD	- MONUMENTS OF RECORD DIGNITY
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1/2" IRON PIPE FOUND	
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PIPE - GAS PIPELINE MARKER	
CABLE	- ELECTRIC
CLEAN OUT	PE - POOL EQUIP
GAS METER	- POWER POLE
FIRE HYDRANT	- TELEPHONE
LIGHT POLE	- WATER METER
MANHOLE	- WATER VALVE
(UNLESS OTHERWISE NOTED)	



Barry S. Rhodes



City of Denton

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

Legislation Text

File #: ID 24-1339, Version: 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton providing for the abandonment, relinquishment, and quitclaim of two (2) drainage easements approximately a total of 1.977-acres, situated in the G. Walker Survey, Abstract Number 1330, recorded document number 2020-52852 and 2020-52854, granted to the City of Denton by Pulte Homes of Texas, L.P., being a portion described by deed document number 2019-73001, of the Real Property Records of Denton County, Texas; providing for the quitclaim thereof to Pulte Homes of Texas, L.P.; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a easement and/or facilities to the City of Denton; providing for the indemnification of the City of Denton against damages arising out of the abandonment herein; providing for consideration to be paid to the City of Denton; providing for severability and an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Development Services, Real Estate

ACM: Cassandra Ogden

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton providing for the abandonment, relinquishment, and quitclaim of two (2) drainage easements approximately a total of 1.977-acres, situated in the G. Walker Survey, Abstract Number 1330, recorded document number 2020-52852 and 2020-52854, granted to the City of Denton by Pulte Homes of Texas, L.P., being a portion described by deed document number 2019-73001, of the Real Property Records of Denton County, Texas; providing for the quitclaim thereof to Pulte Homes of Texas, L.P.; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a easement and/or facilities to the City of Denton; providing for the indemnification of the City of Denton against damages arising out of the abandonment herein; providing for consideration to be paid to the City of Denton; providing for severability and an effective date.

BACKGROUND

Pulte Homes of Texas, L.P. ("Owner") is the record owner of land situated near the 7500 block of East McKinney Street. The Owner has filed an application requesting the City of Denton to abandon and release the drainage easements it conveyed to the City in April 2020 ("Subject Easements"), so that it may continue to erect planned residential improvements known as Townsend Green Phase 2.

The Subject Easements to be abandoned were required for Phase 1 of the Townsend Green development. The storm drainage infrastructure constructed for Phase 2, encloses the open channels constructed in Phase 1 and reroutes them within a closed pipe system within the public right of way, eliminating the need for the original easements through the undeveloped private property. The Owner plans to design and develop the tract currently zoned residential with single-family homes.

Staff has reviewed and approved the planned public improvements for the residential development, which renders the Subject Drainage Easements no longer necessary for any current or future needs.

The Owner has paid the requested Easement Abandonment Application fee of Three Thousand Two Hundred Eighty-Six and 00/100 (\$3,286.00). In accordance with Texas Local Government Code, Section 272, an independent appraisal of the Subject Easements was obtained. The fair market value was appraised at One Hundred Fifty Thousand Seven Hundred and Two Dollars and 00/100 (\$150,702.00).

Staff recommends abandoning and releasing the Subject Easements at no additional cost to the applicant because they were dedicated to the City at no cost and new infrastructure has been constructed and installed in new easements at no cost to the City.

Staff performs an analysis on the request for abandonments as follows:

- Is the Easement Agreement considered “excess easement”? Excess easement is defined as: Property rights acquired or used by the City but later deemed not needed for any public project, the continuation of operation and maintenance of public infrastructure, and/or no foreseeable public improvements in the future.
- Does the easement have a current, continued, or identified future public use?
- Is it in the best interest of the public to abandon the City’s rights in the easement?

Staff findings on this analysis are as follows:

1. The Subject Easements/abandonment areas that have been deemed “excess”. Staff has determined with DAT review and approval that the Drainage Easements are no longer needed.
2. The City was provided storm drainage infrastructure within Phase 2 that eliminated the need for the Subject Easements through undeveloped private property. No current, continued or future public use has been identified.
3. Abandoning the Subject Easements is in the public’s best interest because it allows the owner to maximally develop the property as planned.

If a Council member determines that he or she has a conflict of interest pursuant to the Ethics Ordinance, he or she may contact the City Attorney’s Office to have a Recusal Form prepared prior to consideration of this agenda item.

OPTIONS

1. Approve proposed ordinance.
2. Decline to approve proposed ordinance.

RECOMMENDATION

Staff recommends approval of the Ordinance.

ESTIMATED SCHEDULE OF PROJECT

N/A

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

N/A

FISCAL INFORMATION

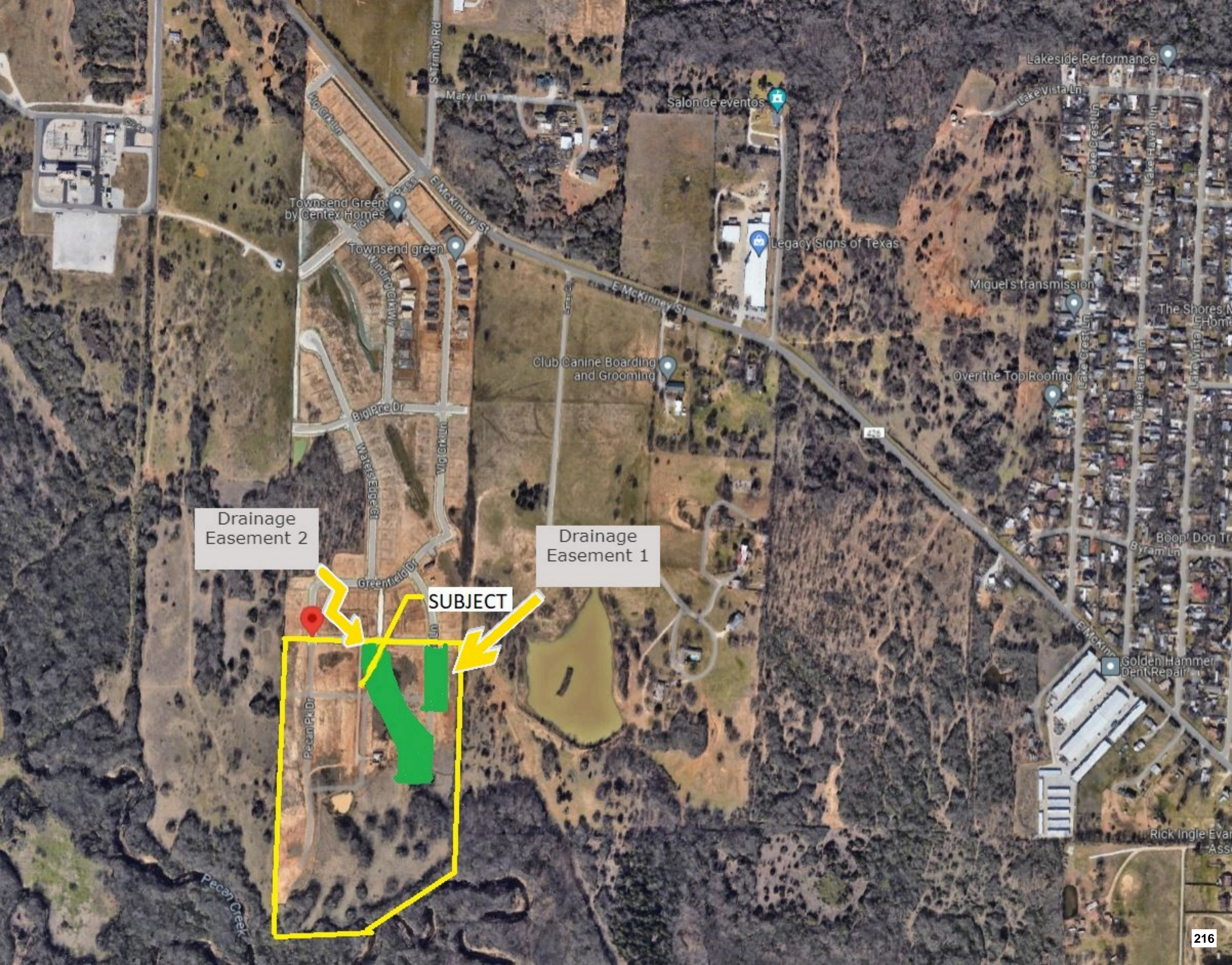
All costs associated with the processing of the abandonment request are being borne by the Applicant.

EXHIBITS

Exhibit 1 - Agenda Information Sheet

Exhibit 2 - Location Map
Exhibit 3 - Ordinance

Respectfully submitted:
Captoria Brown, Senior Real Estate Specialist
Development Services-Real Estate



Drainage
Easement 2

Drainage
Easement 1

SUBJECT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF DENTON PROVIDING FOR THE ABANDONMENT, RELINQUISHMENT, AND QUITCLAIM OF TWO (2) DRAINAGE EASEMENTS APPROXIMATELY A TOTAL OF 1.977-ACRES, SITUATED IN THE G. WALKER SURVEY, ABSTRACT NUMBER 1330, RECORDED DOCUMENT NUMBER 2020-52852 AND 2020-52854, GRANTED TO THE CITY OF DENTON BY PULTE HOMES OF TEXAS, L.P., BEING A PORTION DESCRIBED BY DEED DOCUMENT NUMBER 2019-73001, OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS; PROVIDING FOR THE QUITCLAIM THEREOF TO PULTE HOMES OF TEXAS, L.P.; PROVIDING FOR THE TERMS AND CONDITIONS OF THE ABANDONMENT, RELINQUISHMENT AND QUITCLAIM MADE HEREIN; PROVIDING FOR THE CONVEYANCE OF A EASEMENT AND/OR FACILITIES TO THE CITY OF DENTON; PROVIDING FOR THE INDEMNIFICATION OF THE CITY OF DENTON AGAINST DAMAGES ARISING OUT OF THE ABANDONMENT HEREIN; PROVIDING FOR CONSIDERATION TO BE PAID TO THE CITY OF DENTON; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Denton (“City”) is the holder of Drainage Easements granted by Pulte Homes of Texas, L.P., recorded by County Clerk File No. 2020-52852 and 2020-52854, Real Property Records of Denton County, Texas (the “Subject Easements”); and

WHEREAS, Pulte Homes of Texas, L.P., (“Owner” or “Grantee”), is the record abutting owner of the property subject to the Subject Easement; and

WHEREAS, the Owner has requested the City to abandon, relinquish and quitclaim two (2) Drainage Easements approximately 1.977-acres (the “Abandonment Tract”), as described and depicted in Exhibit “A” attached hereto, in order to develop the property in compliance with the Denton Development Code; and

WHEREAS, storm drainage infrastructure installed by Grantee reroutes within a closed pipe system within the City’s Public Right-of Way, eliminating the need for the Subject Easements; and

WHEREAS, the City Engineer, and Public Works staff have confirmed that the property has been developed in such a manner that the Subject Easements are no longer necessary to address previous drainage concerns on the property or for any current or future drainage easement or utility projects ; and

WHEREAS, City Staff reviewed the request of the Owner and determined that the Subject Easement is no longer necessary for any current or future drainage project which will allow for the area to be developed with permitted improvements, and City Staff recommends the Subject Easements be released, abandoned, and vacated in its entirety as specified herein; and

WHEREAS, Section 272.001(b)(2) of the Texas Local Government Code provides an applicable exception to the notice and bidding requirements where land and interests to

be abandoned are used by easement, fair market value has been determined, and the exchange transaction is with an adjacent landowner; and

WHEREAS, Section 272.001 also provides that the land and those interests may be conveyed, sold, or exchanged for less than the fair market value if exchanged with an abutting property owner who owns the underlying fee simple; and

WHEREAS, an independent appraisal of the Subject Easement area was provided by the Owner and it lists the fair market value at One-Hundred Fifty-Thousand Seven-Hundred and Two Dollars and/no cents (\$150,702.00); and.

WHEREAS, staff recommends the abandonment of the Subject Easements tract at no cost to the Owner as the City acquired the easement at no cost, and the existing drainage easements are no longer required by the City because new drainage easements have been conveyed for the public improvements. The Subject Easement tract has no identified current or future use for public drainage or utility projects ; and

WHEREAS, the City Council of the City of Denton, acting pursuant to law and upon request and petition of the Pulte Homes of Texas, L.P.; hereinafter referred to as Grantee, deems it advisable to abandon, relinquish and quitclaim the City of Denton's right, title and interest in and to the hereinafter described tract of land to Grantee, and is of the opinion that, subject to the terms and conditions herein provided, said drainage easements are no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to Grantee as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Denton is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to Grantee for the consideration and subject to the terms and conditions hereinafter more fully set forth; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations and finding set forth above are incorporated herein by reference.

SECTION 2. That the City of Denton hereby abandons, relinquishes and quitclaims all of its right, title and interest in and to the Abandonment Tracts, that are approximately 1.977-acres Subject Easement, as described and depicted in Exhibit "A," attached to this ordinance and made a part hereto for all purposes, subject, however, to the conditions hereinafter more fully set out.

SECTION 3. That for and in monetary consideration of the sum of Three Thousand, Two Hundred Eighty-Six and 00/100 Dollars (\$3,286.00) paid by Pulte Homes of Texas, L.P., and the further consideration described in Sections 7, 8, the City of Denton does by these presents **FOREVER QUITCLAIM** unto the said **Grantee**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title in and to the certain tract(s) or parcel(s) of land hereinabove described in Exhibit A, **TO HAVE AND TO HOLD** all of such right, title and

interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **Grantee** forever may be abandoned, released, and vacated.

SECTION 4. That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 5. That the terms and conditions contained in this ordinance shall be binding upon Grantee, its heirs, successors and assigns.

SECTION 6. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Denton may legally and lawfully abandon and vacate.

SECTION 7. **THAT AS A CONDITION OF THIS ABANDONMENT AND AS A PART OF THE CONSIDERATION FOR THE QUITCLAIM TO GRANTEE HEREIN, GRANTEE, ITS/THEIR HEIRS/SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS THE CITY OF DENTON AS TO ANY AND ALL CLAIMS FOR DAMAGES, FINES, PENALTIES, COSTS OR EXPENSES TO PERSONS OR PROPERTY THAT MAY ARISE OUT OF, OR BE OCCASIONED BY OR FROM: (I) THE USE AND OCCUPANCY OF THE AREA DESCRIBED IN EXHIBIT A BY GRANTEE, ITS/THEIR HEIRS/SUCCESSORS AND ASSIGNS; (II) THE PRESENCE, GENERATION, SPILLAGE, DISCHARGE, RELEASE, TREATMENT OR DISPOSITION OF ANY HAZARDOUS SUBSTANCE ON OR AFFECTING THE AREA SET OUT IN EXHIBIT A, (III) ALL CORRECTIVE ACTIONS CONCERNING ANY DISCOVERED HAZARDOUS SUBSTANCES ON OR AFFECTING THE AREA DESCRIBED IN EXHIBIT A, WHICH GRANTEE, ITS HEIRS, SUCCESSORS AND ASSIGNS AGREE TO UNDERTAKE AND COMPLETE IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS; AND (IV) THE ABANDONMENT, CLOSING, VACATION AND QUITCLAIM BY THE CITY OF DENTON OF THE AREA SET OUT IN EXHIBIT A. GRANTEE, ITS HEIRS, SUCCESSORS AND ASSIGNS HEREBY AGREE TO DEFEND ANY AND ALL SUITS, CLAIMS, OR CAUSES OF ACTION BROUGHT AGAINST THE CITY OF DENTON ON ACCOUNT OF SAME, AND DISCHARGE ANY JUDGMENT OR JUDGMENTS THAT MAY BE RENDERED AGAINST THE CITY OF DENTON IN CONNECTION THEREWITH. FOR PURPOSES HEREOF, "HAZARDOUS SUBSTANCE" MEANS THE FOLLOWING: (A) ANY "HAZARDOUS SUBSTANCES" UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, 42 U.S.C. SECTION 9601 ET SEQ., AS AMENDED; (B) ANY "HAZARDOUS SUBSTANCE" UNDER THE TEXAS HAZARDOUS SUBSTANCES SPILL PREVENTION AND CONTROL ACT, TEX. WATER CODE, SECTION 26.261 ET SEQ., AS AMENDED; (C) PETROLEUM OR PETROLEUM-BASED PRODUCTS (OR ANY DERIVATIVE OR HAZARDOUS CONSTITUENTS THEREOF OR ADDITIVES THERETO),**

INCLUDING WITHOUT LIMITATION, FUEL AND LUBRICATING OILS; (D) ANY “HAZARDOUS CHEMICALS” OR “TOXIC CHEMICALS” UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT, 29 U.S.C. SECTION 651 ET SEQ., AS AMENDED; (E) ANY “HAZARDOUS WASTE” UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT, 42 U.S.C. SECTION 6901 ET SEQ., AS AMENDED; AND (F) ANY “CHEMICAL SUBSTANCE” UNDER THE TOXIC SUBSTANCE CONTROL ACT, 15 U.S.C. SECTION 2601 ET SEQ., AS AMENDED. REFERENCES TO PARTICULAR ACTS OR CODIFICATIONS IN THIS DEFINITION INCLUDE ALL PAST AND FUTURE AMENDMENTS THERETO, AS WELL AS APPLICABLE RULES AND REGULATIONS AS NOW OR HEREAFTER PROMULGATED THEREUNDER.

SECTION 8. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to Subject Easement shall not become effective until and unless: (i) the existing installations and facilities are relocated, at Grantee 's expense, to the new easement, to be provided by Grantee and acceptable to the Director of Development Services, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Development Services; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Development Services. Grantee will grant the new easement at no cost consideration to the City and all work shall be done at the sole cost of Grantee and to the satisfaction of the Director of Development Services. Failure to relocate to the new easement in accordance with the terms of this section shall render this ordinance null and void and of no further effect.

SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Denton County, Texas, which certified copy shall be delivered to the Director of Development Services, or designee.

SECTION 10. Notwithstanding anything to the contrary contained in this Ordinance, the City of Denton retains and reserves any and all easements, rights of way, and any other rights or interests, other than the Abandonment Tract abandoned, relinquished and quitclaimed in Section 2 above, whether acquired, obtained, owned, or claimed by the City of Denton or public, by, through, or under conveyance, dedication by plat, or other express dedication, implied dedication, prescription, or by any other manner or means, in or to lands in which the Subject Easement may cover, encumber, include, cross, or overlap.

SECTION 11. Upon evidence showing satisfaction of the above requirements, the City Manager, or designee, is authorized to execute a quitclaim deed document evidencing the abandonment of the Abandonment Tract suitable for recordation in the Real Property Records of Denton County, Texas.

SECTION 12. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the public street and thoroughfare is located, which certified copy shall be delivered to the Director of Department of Development Services, or designee.

SECTION 13. The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

SECTION 14. This Ordinance shall become effective immediately upon its passage and approval.

EX[Signatures to appear on the following page.]

The motion to approve this ordinance was made by _____ and seconded by _____, the ordinance was passed and

approved by the following vote [____ - ____]:

	<u> </u> Aye	Nay	Abstain	Absent
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee: At Large Place 5	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Benjamin N. Samples, II

EXHIBIT A
(1.977-acres)

TBPELS - LS FIRM REG. NO. 10177700

Basis of Bearing is the Texas Coordinate System
North Central Zone 4202, NAD 83



0 200 400

GRAPHIC SCALE IN FEET

"Integral Parts of this Document"

1. Description
2. Exhibit

IRF = Iron Rod Found

Point of
Commencing

E. McKinney Street (FM 426)
(a variable width right-of-way)
+/- 870' to S. Trinity Rd.

3020.95'

S01° 26' 28" W

Pulte Homes of Texas, L.P.
Inst. # 2019-73001
R.P.R.D.C.T.

Kamy Real Property Trust
Inst. # 2014-44836
R.P.R.D.C.T.

Point of
Beginning

S88° 33' 32" E
398.74'

N01° 34' 25" E
115.00'

N21° 50' 26" W
304.78'

N01° 33' 58" E
128.62'

N88° 33' 32" W
129.98'

S01° 34' 21" W
155.26'

130.00'

1.637
Acres

S21° 50' 26" E
304.77'

S01° 34' 25" W
88.37'

G. WALKER SURVEY
ABSTRACT No. 1330

1474.07'

S01° 26' 28" W

S01° 26' 28" W

S01° 26' 28" W

IRF

United States of America
Vol. 411, Pg. 194
R.P.R.D.C.T.

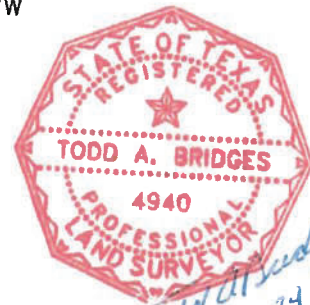


EXHIBIT OF A

Drainage Easement Abandonment

SITUATED IN THE G. WALKER SURVEY, ABSTRACT NUMBER 1330,
CITY OF DENTON, DENTON COUNTY, TEXAS.

PELOTON
LAND SOLUTIONS
9800 HILLWOOD PARKWAY, SUITE 250
FORT WORTH, TEXAS 76177 PH # 817-562-3350

JOB # PLT18004

DRAWN BY: TBR

CHECKED BY: TB

DATE: 04-22-2024

PAGE # 2 of 2

TBPLS Firm Reg No. 10177700



0 100 200

GRAPHIC SCALE IN FEET

"Integral Parts of this Document"

1. Description
2. Exhibit

Basis of Bearing is the Texas
Coordinate System North Central
Zone 4202, NAD 83

IRF = Iron Rod Found

G. WALKER SURVEY
ABSTRACT No. 1330

Pulte Homes of Texas, L.P.
Inst.* 2019-73001
R.P.R.D.C.T.



Point of
Beginning

S88°17'38"E
50.00'

296.50'
0.340
Acres
296.50'
N01°26'37"E
S01°26'37"W
N88°17'38"W
50.00'

DRAIN. ESMT.
Inst.* 2020-52852
R.P.R.D.C.T.

Point of
Commencing

E. McKinney Street
(a variable width right-of-way)
(FM 426)

S01°42'51"W
2078.54'

+/- 500 to
Laney Circle

1069.62'

S01°42'51"W

"CORPS OF ENGINEERING"
Monument

David H. Laney, Trustee
(Tract II)
Inst.* 2002-141489
R.P.R.D.C.T.

United States of America
Vol. 411, Pg. 194
R.P.R.D.C.T.

EXHIBIT OF A

Drainage Easement Abandonment

SITUATED IN THE G. WALKER SURVEY, ABSTRACT NUMBER 1330,
CITY OF DENTON, DENTON COUNTY, TEXAS.



JOB #	PLT18004	DRAWN BY:	TBR	CHECKED BY:	SS	DATE:	02-06-2020	PAGE #	2 of 2
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City of Denton

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

Legislation Text

File #: ID 24-1473, **Version:** 1

Agenda Caption

Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a Façade and Building Renovation Rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Economic Development

ACM: Christine Taylor, Assistant City Manager

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a Façade and Building Renovation Rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

BACKGROUND

The building at 116 W. Oak was home to McBride's Music & Pawn for 52 years when it closed to merge with another pawn shop, resulting in its relocation outside Denton. The building's exterior and interior remained largely unchanged during those years, resulting in a tired façade needing significant repairs.

In the spring of 2023, Mr. Hicks, an existing Downtown investor, purchased the building. He is a long-term investor and plans to invest significantly in 116 W. Oak to renovate the building as close as possible to its 1938 roots, creating a restaurant/retail use at street level and offices on the second.

The Historic Preservation Officer, Cameron Roberts, provided historical photos of the building and connected the applicant with the Texas Historic Commission architect to assist in finding a design solution that met the goals of the property owner and the Secretary of the Interior Standards for properties within the National Registry District. The renovation will result in a building reminiscent of the 1938 photo provided in the application backup. Updates to the exterior of the building include uncovering the original brick if possible, replacing the awning with a new steel flat awning consistent with the 1938 photo, installing new glass in the currently hidden transom windows, and replacing current windows with energy-efficient ones, removing the street-level display windows and moving the walls back to be flush with the existing door creating patio dining without obstructing the sidewalk.

The project is located within the Downtown TIRZ #1 and Downtown Square Districts. It has been reviewed by the Historic Preservation Officer for Design Consistency, as outlined in the Denton Development Code Section 4.10.1, and received approval to proceed with the proposed updates to the building façade. Additionally, the signage update has been reviewed by the Department of Development Services Building Safety and has an approved permit.

Projected Improvements include: Façade/Building Rehab and Awnings/Signs

Project Submitted Expenses: \$138,529

Grant Request: \$50,000

Applicable Policy Limits:

- *Façade/Building Rehab*: Grants are limited to a 50% match of the eligible project's costs, with a cap of \$50,000 per grant for facade, roof and foundation work. Roof and foundation repair may constitute no more than half of the request and shall only be considered for funding if included as a portion of a larger project. Paint-only grants are limited to a 50% match with a cap of \$7,500 per grant.
- *Awnings and Signs*: Replacing, adding or repairing awnings and signs. Signs may include signboards, projecting signs, and pedestrian signage (including window signs, hanging signs, and awning/canopy Sign).

PRIOR ACTION/REVIEW

February 1, 2024 – Downtown Economic Development Committee (DEDC) reviewed and scored the application. The building rehabilitation application automatically received an average score of 33 points, making it eligible for a recommendation of up to \$50,000. This score supports the recommendation to approve the application as requested. The grant application request and DEDC recommendation is for \$50,000.

February 28, 2024 – Downtown Denton Tax Increment Reinvestment Zone Number One Board reviewed the application and voted to recommend City Council approve the Downtown Reinvestment Grant Program application in the amount not to exceed \$50,000, as recommended by the DEDC for Green Eggs and Ham LLC., located at 116 W. Oak St.

OPTIONS

1. Recommend approval of grant as recommended by the TIRZ #1 Board.
2. Recommend a lesser amount than recommended by the TIRZ #1 Board.
3. Do not recommend approval of the grant application.

EXHIBITS

Exhibit 1 – Agenda Information Sheet
 Exhibit 2 – Agreement and Ordinance
 Exhibit 3 - Presentation
 Exhibit 3 – HPO Review
 Exhibit 4 – LLC Search

Respectfully submitted:
 Kristen Pulido
 Main Street Program Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON APPROVING A GRANT TO GREEN EGGS & HAM, LLC FOR IMPROVEMENTS LOCATED AT 116 W. OAK ST. FROM THE DOWNTOWN REINVESTMENT GRANT PROGRAM FOR A FAÇADE AND BUILDING RENOVATION REHABILITATION GRANT IN AN AMOUNT NOT TO EXCEED \$50,000 FROM TIRZ FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 3, 2007, the City Council approved the Downtown Reinvestment Grant Program (the “Program”) by Ordinance No. 2007-072; and

WHEREAS, on December 14, 2021, the City Council approved changes to the Program by Ordinance No. 21-2626; and

WHEREAS, Green Eggs & Ham, LLC, owner of the property located at 116 W. Oak St. (the “Property”), applied for a \$50,000.00 rehabilitation grant in accordance with the Program; and

WHEREAS, the Tax Increment Financing Reinvestment Zone Number One Board and the Downtown Economic Development Committee reviewed the application in accordance with the Program and recommend a rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and

WHEREAS, it is in the public interest and benefits the Downtown TIRZ to award the Downtown Reinvestment Grant, thereby stimulating economic development and promoting desired redevelopment in the downtown area of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations in the preamble of this ordinance are found to be true and incorporated herein by reference as if fully set forth in the body of this ordinance.

SECTION 2. The City Council of the City of Denton hereby approves the Agreement attached hereto authorizing a rehabilitation grant in an amount not to exceed \$50,000.00 from the Program.

SECTION 3. The City Manager, or their designee, is hereby authorized to execute the Agreement and to carry out the duties and responsibilities of the City, including the expenditure of funds as provided in the Agreement.

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 _____; 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray
Scott Bray, Deputy City Attorney

DOWNTOWN REINVESTMENT GRANT AGREEMENT

This Downtown Reinvestment Grant Agreement (the “Agreement”) is entered into by and between the City of Denton, Texas (the “City”), duly acting herein by and through its City Manager, and Green Eggs & Ham Investments, LLC, a Wyoming limited liability company authorized to do business in Texas with a principal place of business at 1309 Coffeen Avenue Suite 1200, Sheridan, Wyoming 82801 (“Owner”).

WHEREAS, the City Council of Denton, Texas (the “City Council”) has, by Ordinance No. 2007-072, elected to offer downtown reinvestment grant incentives and has adopted guidelines and criteria governing downtown reinvestment grant incentive agreements known as the Downtown Reinvestment Grant Program Policy (the “Program”), a copy of which is on file in the City of Denton Economic Development Office and which is incorporated herein by reference; and

WHEREAS, the Program constitutes appropriate guidelines and criteria governing downtown reinvestment grant incentive agreements to be entered into by the City; and

WHEREAS, the Owner will be the owner or have a leasehold interest, as of the Effective Date (as hereinafter defined), of certain real property more particularly described in Exhibit “A” attached hereto and incorporated herein by reference and made a part of this Agreement for all purposes (the “Premises”); and

WHEREAS, on the 11th day of October, 2023, Owner submitted an application for a reinvestment grant with various attachments to the City concerning the contemplated use of the Premises (the “Application”), which is attached hereto and incorporated herein by reference as Exhibit “B”; and

WHEREAS, the City Council of the City of Denton finds that the contemplated use of the Premises, the Improvements (as hereinafter defined) to the Premises as set forth in this Agreement, and the other terms hereof are consistent with encouraging development in accordance with the purposes and are in compliance with the Program and similar guidelines and criteria adopted by the City and all applicable law;

NOW, THEREFORE, the City Manager and Owner, for and in consideration of the premises and the promises contained herein do hereby contract, covenant, and agree as follows:

I.

TERMS AND CONDITIONS OF REIMBURSEMENT GRANT

A. In consideration of and subject to the Owner meeting all the terms and conditions of reimbursement set forth herein, the City will pay to the Owner the following reimbursement grant:

1. A reimbursement grant in an amount not to exceed \$50,000.00 (the “Grant”) attributable to new Improvements, as hereinafter defined, being constructed on the Premises.

2. The Grant will be distributed to Owner as a lump sum reimbursement upon completion of the Project, the receipt of adequate documentation of expenditure of the Grant amount on costs necessary and related to the Improvements as described in Exhibit "B" attached hereto, and approval of the completed Improvements by the City.

B. A condition of receiving the Grant is that, by August 6, 2025, Owner will complete the façade and building renovation as described in Exhibit "B" (collectively, the "Improvements") on the Premises.

C. A condition of the Reimbursement is that the Improvements be completed and used substantially in accordance with the description of the project set forth in Exhibit "B" and comply with the requirements of the Program.

D. Owner agrees to comply with all the terms and conditions set forth in this Agreement.

E. The parties expressly understand and agree that City's payment of the Grant is contingent upon City's receipt and appropriation of adequate funds to pay the Grant. If adequate funds are not available to make the payment under this Agreement, City may, at its option, either reduce the amount of the Grant or terminate the Agreement.

F. It is expressly understood that this Agreement in no way obligates the City to provide more funds than the Grant amount.

II. CONDITION OF REIMBURSEMENT

A. Prior to payment of any portion of the Grant, all ad valorem real property taxes with respect to the Premises and all other property in the City owned by the Owner shall be current.

B. Prior to the payment of any portion of the Grant, Owner shall have constructed the Improvements as specified in Exhibit "B."

C. If alterations to the paint, sign renovations, utility upgrades, façade and building renovations, or interior/code improvements portion of the Improvements are made for any reason within one (1) year from final payment of the Grant, Owner is required to reimburse the City in the full amount of the Grant.

D. Prior to the award of the Grant, Owner shall own or have a leasehold interest in the Premises.

III.
RECORDS AND EVALUATION OF PROJECT

A. The Owner shall provide access and authorize inspection of the Premises by City employees and allow sufficient inspection of financial information related to construction of the Improvements to ensure that the Improvements are made, and performance thresholds are met according to the specifications and conditions of this Agreement. Such inspections shall be done in a way that will not interfere with Owner's business operations.

IV.
GENERAL PROVISIONS

A. The City has adopted guidelines and criteria for the Program that allow it to enter into this Agreement containing the terms set forth herein.

B. The City has determined that procedures followed by the City to enter into this Agreement and the obligations of the parties to this Agreement conform to the requirements of the Code and the Program.

C. In the event of any conflict between the City zoning ordinances, or other City ordinances or regulations, and this Agreement, such ordinances or regulations shall control.

D. Owner represents and warrants that Owner is authorized to make the Improvements to the Premises.

V.
NOTICE

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designated in writing, by certified mail postage prepare, by hand delivery or via facsimile:

OWNER:

John Hicks
Green Eggs & Ham Investment, LLC
7420 FM 2449
Ponder, TX 76259

CITY:

Sara Hensley, City Manager
City of Denton
215 East McKinney
Denton, Texas 76201
Fax No. 940.349.8596

VI.
CITY COUNCIL AUTHORIZATION

This Agreement was authorized by the City Council by passage of Ordinance No. _____ authorizing the City Manager to execute this Agreement on behalf of the City.

VII.
SEVERABILITY

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word. In the event that (i) the term of the Grant with respect to any property is longer than allowed by law, or (ii) the Grant applies to a broader classification of property than is allowed by law, then the Grant shall be valid with respect to the classification of property abated hereunder, and the portion of the term, that is allowed by law.

VIII.
OWNER STANDING

Owner, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and Owner shall be entitled to intervene in said litigation.

IX.
APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is fully performable in Denton County, Texas. Venue for any action under this Agreement shall be in Denton County, Texas.

X.
ENTIRE AGREEMENT

This instrument with the attached exhibits contains the entire agreement between the parties with respect to the transaction contemplated in this Agreement.

XI.
BINDING

This Agreement shall be binding on the parties and the respective successors, assigns, heirs, and legal representatives.

XII.
COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XIII.
SECTION AND OTHER HEADINGS

Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

XIV.
NO JOINT VENTURE

Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby disavowed.

XV.
AMENDMENT

This Agreement may be modified in writing by the parties hereto to include other provisions which could have originally been included in this Agreement or to delete provisions that were not originally necessary to this Agreement.

XVI.
FORCE MAJEURE

If, because of flood, fire, explosions, civil disturbances, strikes, war, acts of God, or other causes beyond the control of either Party, either Party is not able to perform any or all of its obligations under this Agreement, then the respective Party's obligations hereunder shall be suspended during such period but for no longer than such period of time when the party is unable to perform.

XVII.
INDEMNIFICATION

OWNER SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH DIRECTLY OR INDIRECTLY ARISES FROM CITY'S GRANT AND OWNER'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER AND ANY CONTESTS OR CHALLENGES TO THE LEGAL AUTHORITY OF THE CITY OR OWNER TO ENTER INTO THIS AGREEMENT AND ANY AND ALL LIABILITIES, LOSSES, COSTS OR EXPENSES (INCLUDING ATTORNEY'S FEES AND DISBURSEMENTS) THAT ANY INDEMNITEES SUFFER OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT OWNER SHALL HAVE NO OBLIGATION UNDER THIS PARAGRAPH TO THE CITY WITH RESPECT TO ANY OF THE FOREGOING ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR THE BREACH BY THE CITY OF THIS AGREEMENT.

This Agreement is executed to be effective on the executed date of the ____ day of _____, 2024, (the “Effective Date”) by duly authorized officials of the City and Owner.

CITY OF DENTON

SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray
Scott Bray, Deputy City Attorney

OWNER:
GREEN EGGS & HAM, LLC

DocuSigned by:
By: John Hicks
20CA852DF9FD4A0...
JOHN HICKS, Governing Person

EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Extracted from General Warranty Deed, file 2023-1178, Denton County Clerk Recorder

BEING THE EAST 1/2 OF LOT 2, BLOCK 5, OF THE ORIGINAL TOWN OF DENTON, AN ADDITION TO DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 53, DEED RECORDS OF DENTON COUNTY, TEXAS.

EXHIBIT B
APPLICATION AND IMPROVEMENTS

EXHIBIT A



**CITY OF DENTON
DOWNTOWN REINVESTMENT GRANT PROGRAM APPLICATION**

Department of Economic Development
401 N. Elm St., Denton, TX 76201
940-349-7776
www.cityofdenton.com
ED@cityofdenton.com

Downtown Reinvestment Grant Program Application

Please return completed the application with necessary attachments and signatures to the Economic Development Department office at 401 N. Elm St., Denton, Texas. If you have any application questions, please contact the Economic Development Department at 940-349-7776.

Applicant Name	Date
MARK HICKS	10/11/23
Business Name	GREEN EGGS + HAM LLC
Mailing Address	7420 FM 2449 PONDER, TX 76259
Contact Phone	Email Address
972-955-5653	MHicks@HicksLP.com
Building Owner (if different from applicant)	
Historical/Current Building Name	
116 W. OAK (FORMER McBRIDE'S PAWN)	
Project Site/Address	
116 W. OAK ST., DENTON, TX 76201	

Type of Work: (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Paint Only | <input type="checkbox"/> Awnings |
| <input type="checkbox"/> Signage | <input type="checkbox"/> Impact Fees |
| <input type="checkbox"/> Utility Upgrades | <input type="checkbox"/> Interior/Code Improvements |
| <input checked="" type="checkbox"/> Facade & Building Renovation | <input type="checkbox"/> Fire Suppression System |

Details of planned improvements relating to grant request (attach additional information if necessary).

SEE ATTACHED DETAILED DESCRIPTION + CERTIFICATE OF APPROPRIATENESS.

How will this project benefit Downtown?

SIGNIFICANTLY IMPROVE THE VIEW OF THE NORTH SIDE OF THE SQUARE.

Legal Description of the property:

OT DENTON BLK 5 LOT 2

Project Categories	Estimated Costs	Grant Requested
Facade/Building Rehab	138,529	50,000
Awnings		
Signs		
Impact Fees		
Utility Upgrades		
Interior/Code Improvements		
Fire Suppression System		
Totals		

TOTAL COST OF PROPOSED PROJECT

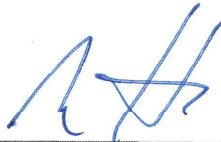
\$ 138,529

TOTAL GRANT REQUEST

(May not exceed 50% of TOTAL COST up to \$50,000)

\$ 50,000

Attach all required color samples of paint, awning/canopy, sign design, etc., as well as photographs of building's exterior facade, roof and foundation.



Applicant's Signature

10/19/23

Date

DOWNTOWN REINVESTMENT GRANT AGREEMENT FORM

Please complete and return with the Downtown Reinvestment Grant Application to the Economic Development office, 401 N. Elm St., Denton, Texas. If you have any questions, please contact the Economic Development Department at 940- 349-7776.

I have met with a representative from the Economic Development Department, and I have read and fully understand the Downtown Reinvestment Grant procedures established by the Denton City Council. I intend to use this grant program for the aforementioned renovation projects to advance the efforts of revitalization and historic preservation of Denton's historic downtown. *I have not received, nor will I receive insurance monies for this revitalization project.*

I understand that if I am awarded a Downtown Reinvestment Grant by the City of Denton, any deviation from the approved project may result in the partial or total withdrawal of the grant. (If I am awarded a reinvestment grant for facade, awning or sign work and the facade, sign or awning is altered for any reason within **one (1) year** from construction, I may be required to reimburse the City of Denton immediately for the full amount of the grant.)

GREEN EGGS + HAM LLC

Business/Organization Name

[Signature]

MARK HICKS

10/11/23

Applicant's Signature

Printed Name

Date

Building Owner's Signature (if different from applicant)

Printed Name

Date

This section is to be completed by Economic Development staff.

Date considered by DEDC

Recommendation

Staff Signature

Date considered by TIRZ #1 Board

Recommendation

Staff Signature

Date considered by City Council

Approval

Staff Signature

Caliber Construction, Inc.
504 Chambers Street
Denton, Texas 76205
(940) 898-8784
(940) 591-0704 Fax

Job: Old McBrides Bld

Address: 116 Oak St

Date: 13-Oct-23

Area: Front Façade

Construction Costs

Estimate

Demolition	12,300.00	Awnings and glass cases outside
Sawcutting		
Demolition Debris Disposal		
Soil Test		
Site Prep		
Water & Sewer Taps		
Water Line		
Fence Permit		
Building Permit	1,200.00	
Foundation Engineering (Testing)		
Foundation Labor		
Arch & Eng&Tas	4,500.00	
Foundation Concrete		
Retaining Wall		
Area Drains on eastside		
Stairs and railing		
Concrete Pump		
Septic System		
Plumbing Labor and Materials		
Framing Materials	1,750.00	
Framing Labor	10,500.00	
Awning	28,000.00	
Insulation		
Trusses		
Office Finish Out		
Windows	24,600.00	
Front Doors	1,250.00	
Transoms/Sidelights		
Skylights		
Man Doors		
Store Front Door		
Overhead Doors 4		
Deck Pan Material		
Roofing		
Metal Roofing		
Waterproofing		
Valley Metal		
Tin Washers/Cement		
Felt Paper		
Fire Alarm		

Fire Sprinkler	
4" Fire Line	
Computer Wires	
Electrical Materials	4,750.00
Electrical Service Revisions	
Garage Openers	
Garage Doors	
Cultured Stone	
Stone Fireplace Cap	
Stone Work	
Stucco	
Flue Finer	
CMU Block (Fireplace)	
Damper	
Mortar	
Sand	
Wall Ties	
Lentils Steel	
Chimney Caps	
Mason Labor	6,500.00
Sheetrock Materials	
Sheetrock Labor	
Tape/Bed/Texture	
Acoustical Ceilings	
Wooden Ceiling Materials	
Decorative Wooden Beam Mat.	
Decorative Wooden Beam Labor	
Trim Materials	
Trim Labor	
Brick Mailbox/Metal Mailbox	
Cabinets	
Backsplash	
Stairway Material	
Insulation	
Pre-Cast Stone	
Ceramic Floor Tile	
Stained Concrete	
Wood Flooring	
Carpet	
Wall Paper Materials	
Wall Paper Labor	
Cook Top	
Oven	
Range Cord	
Refrigerator	
Garbage Disposal	
Dishwasher	
Microwave	
Vent Hood	
Compactor	
Wine Cooler	
Washer	
Dryer	
Dryer Cord	

Smoke Detectors	
Light Fixtures	
Chime Kit	
Ironing board	
Toilet Partitions	
Mason Labor "Firebox"	
Fireplace Mantle	
Bath Shower Tile	
Shower Doors and Glasswork	
Mirrors	
Master Shower Tile	
Master Tub Allowance	
Alarm System	
Hardware	
Cabinet Hardware	
Survey	
Agg/Patterned Concrete	
Remaining Flatwork	
Clean-Up Labor	650.00
Debris Disposal	825.00
Final Cleaning	
Plantation Shutters	
New Retaining Walls	
Existing Retaining Wall Replace	
Fence Repairs	
Site Grading	
Sprinkler System	
Landscaping	
Painter	14,700.00
Gutters	
Septic System	
Granite Countertops	
Formica Countertops	
Existing Kitchen Granite Ctops	
Vanity Tops	
Fans/Light Kits	
Carpentry Materials	1,250.00
Carpentry	1,500.00
Construction Costs Total	114,275.00
<u>Concrete Flatwork</u>	
Concrete Labor	
Concrete Materials	
Concrete Reinforcement	
Parking Lot Stripping	
Flatwork Total	0.00
Building Costs Total	114,275.00

Soft Costs

RES Check Compliance Report

AIA, Bonds

General Liability

Builder's Risk

Plans

Form Placement Survey

Utilities

Water

Portable Restrooms

Construction Management 1,145.00

Overhead 1,125.00

Profit 11,427.00

Tax 10,557.69

Soft Costs Total 24,254.69

Grand Total 138,529.69

Project Narrative 116 W Oak Street

To: The Honorable Members of the Denton City Council, The Honorable Members of the Planning and Zoning Commission and The Department of Development Services

From: Greg Johnson, Verus Commercial
On behalf of Mr. Mark Hicks, Principal. Green Eggs & Ham LLC.
Owner of 116 W Oak Street (former McBride's Music & Pawn).

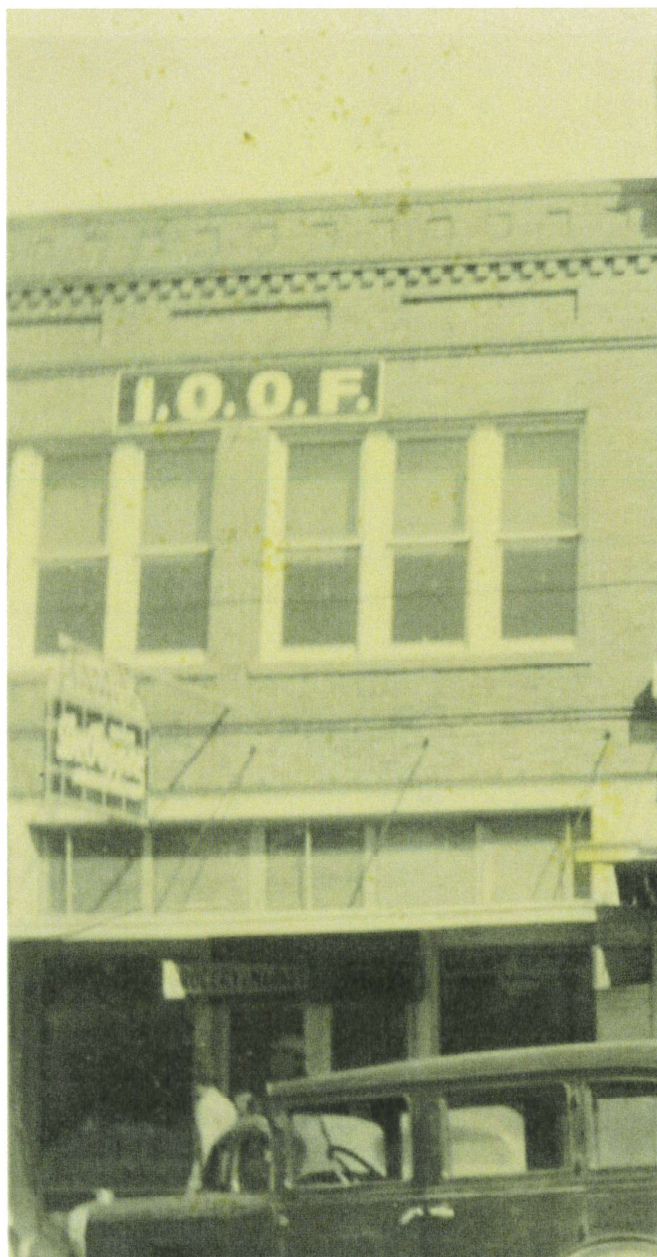
Background

116 W Oak was home to McBride's Music & Pawn for 52 years when it closed and merged with another pawn shop, relocating its operations to Decatur. Both the exterior and interior of the building remained largely unchanged for those 52 years resulting in a tired façade in need of significant repairs in order to re-tenant the building with a high-quality tenant. See photo below of existing condition:



Proposed Exterior Renovation

Cameron Robertson, Historic Preservation Officer, was very helpful in providing a variety of historical photos of the building in order for the applicant to choose a historically appropriate style to mimic for this renovation. We have chosen the exterior photo below circa 1938.



The Renovation

Brick / Paint: The goal is to remove the exterior paint revealing the original brick, however if the brick proves to deteriorate due to paint removal, we will paint the brick with a historically appropriate paint color from the Sherwin Williams Historic Color Palette as directed by Cameron. New brick columns street level will be painted to match the style in the 1938 photo.

Awning: The existing large awning is not structurally sound and is rusted, nor is it consistent with any of the historical photos. Since the requirement is to match a documented (with photo) historical style prior to 50 years prior to current date, keeping the existing awning would not be possible even if it were structurally sound. The plan is to install a new steel flat awning consistent with the 1938 photo which will reveal the transom windows.

Transom Windows: The transom windows were hidden when the large awning & sign were installed by McBride's, but the openings are still there. New windows will be installed in concert with the 1938 photo.

Street Level: Because the desired use is restaurant, we want to allow for a covered patio inset behind the front of the building (property line). The businesses on the square benefit from foot traffic and a vibrant active downtown, as has been proven over the last 10 years as more restaurants have located on the square. As you will see in the architects conceptual drawings, he has designed a front façade consistent with the vertical elements in the 1938 photo that captures the look and feel from 1938 while allowing the storefront entry to be inset about 20 feet. This will allow for patio dining while not obstructing the sidewalk (which can be a challenge in other areas of the square where restaurants place tables on the public property).

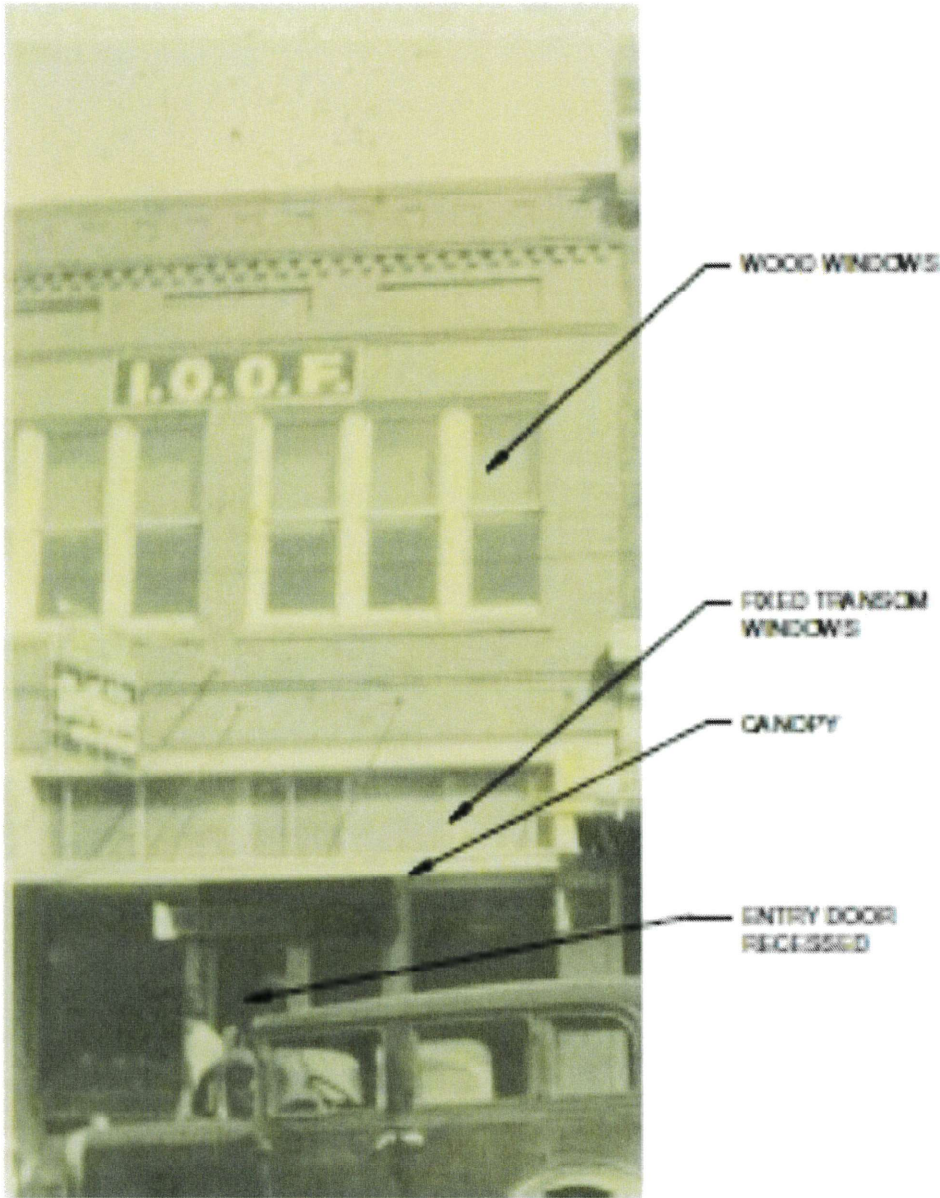
The existing old style inset entry with display windows on each side will be completely removed, allowing for usable patron dining space while achieving the 1938 look.

Existing w/ Notes



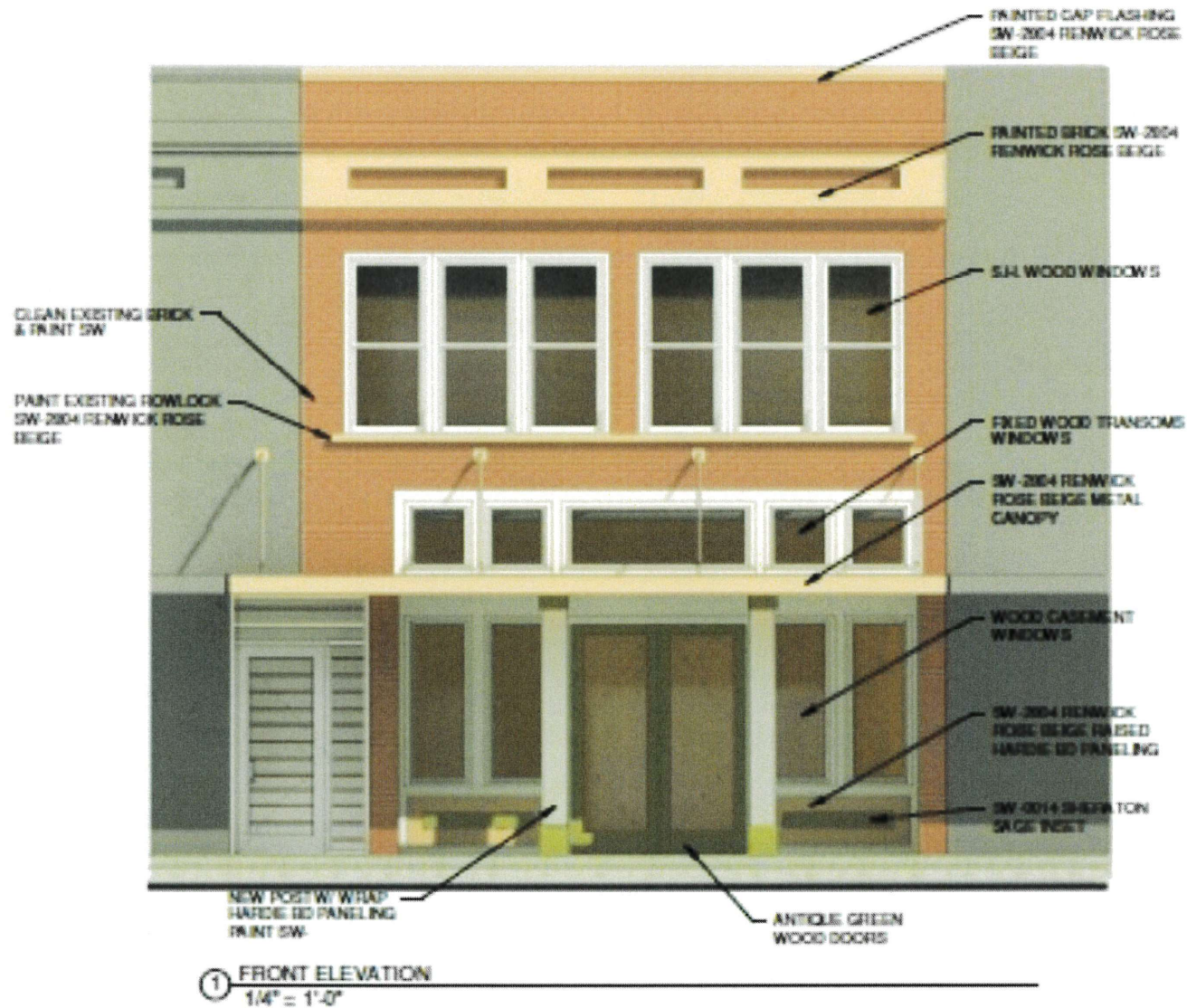
5 BUILDING TODAY
1/4" = 1'-0"

1938 w/ Notes

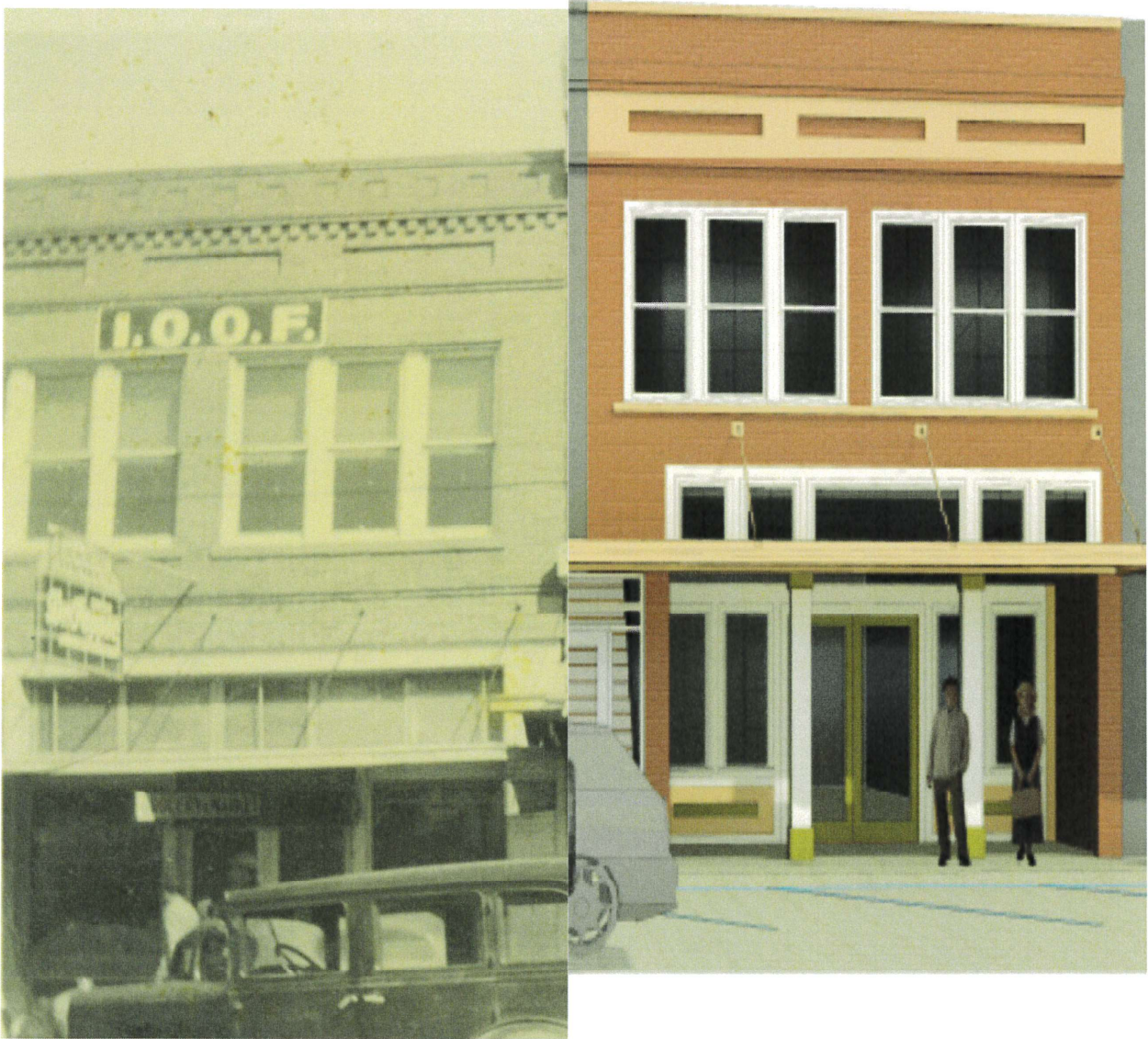


© 1938 HISTORICAL PHOTO
1/4" = 1'-0"

Conceptual Rendering w/ Notes



Side by Side View



Summary

The square has experienced a variety of vacancies in 2022-2023 due in part to long-time businesses closing and others either not recovering from the Covid-related financial downturn or the business just not making it due to product offering, etc. History proves that the square thrives when there is a variety of entertainment, dining and shopping options. Restaurant uses in particular drive unique visitor traffic to the square, and the traffic they generate is good for other business types. Mr. Hicks is already heavily invested in the downtown area and on the square itself. He is a long-term hold investor who hasn't sold any downtown property he has acquired. The significant investment he will make at 116 W Oak is no different, and we believe it will be home to a destination restaurant user for years to come. The proposed renovation will be as close as possible to the 1938 photo while meeting all current code requirements.

This renovation project meets the Overall Intent of the Denton Square District as listing in DDC Section 4.10.1, in fact it meets all of the listed items other than "encourage the integration of art into public & private development", which is not possible given the property line is the building line.

We respectfully ask for your approval so that the renovation can commence, and we bring this building back to life.

116 W OAK FORMER MCBRIDE'S GRANT APPLICATION

FEBRUARY 28, 2024

FIRE SUPPRESSION

- Applaud the city for putting this program into place
- Impossible to do when a building is occupied, so when they turn over (doesn't happen often) is the time to do it.
- In order to make it impactful, we need to keep this program in place and be patient.
- \$50k doesn't even cover half of the cost but it makes a difference!
- Any questions about the application?

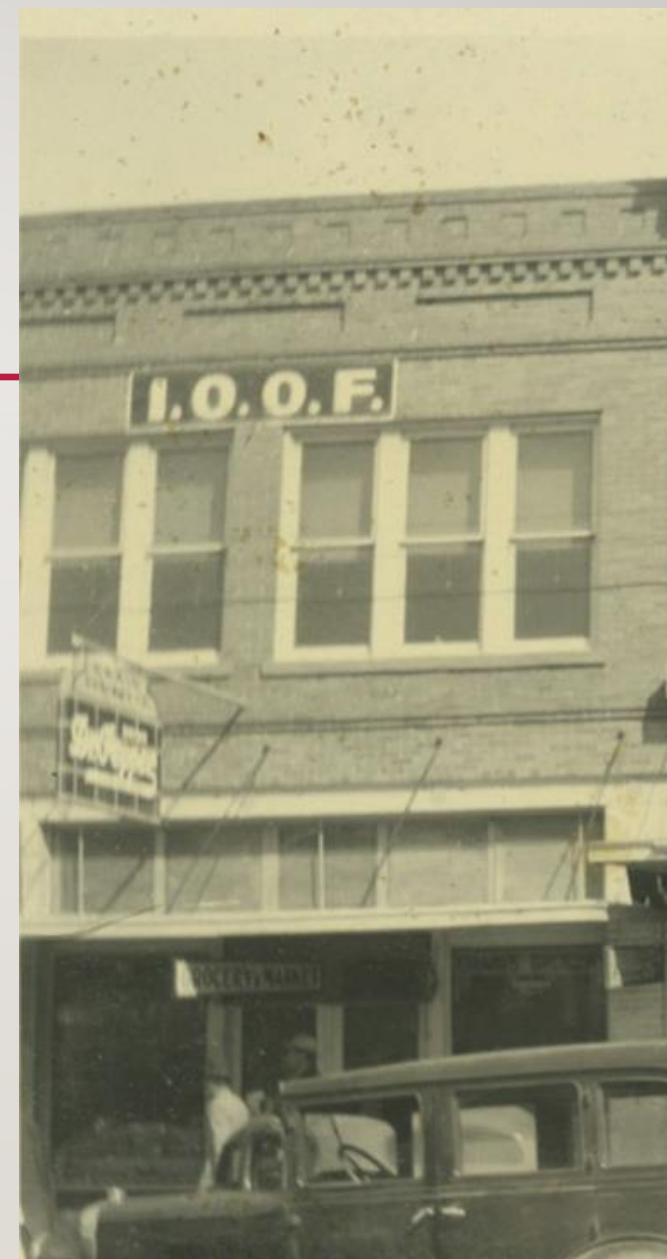
FACADE GRANT

- History
 - McBride's Music & Pawn for 52 years
 - Exterior & Interior largely unchanged during that time
 - Little unique visitor traffic generated
 - Little sales tax generated
 - Exterior not attractive
 - Not “a draw” to the square



FACADE GRANT

- Inspiration
 - Cameron Robertson provided some historical photos for inspiration
 - We've chosen this photo from 1938
 - Brick detail in concert with several others on the square



FACADE GRANT

- The Renovation
 - Brick/Paint
 - goal is to expose original brick removing paint
 - If can't then paint with approved paint color
 - Awning
 - New steel awning matching style of 1938 photo
 - Transom Windows above Awning
 - New windows installed where they were in 1938
 - Street Level
 - Application states desire to recess 20 feet. Staff preferred not to so front façade would match closer to 1938. Tenant has redesigned interior so recessed front not necessary. Will not have front flush from bottom to top. Yeah!



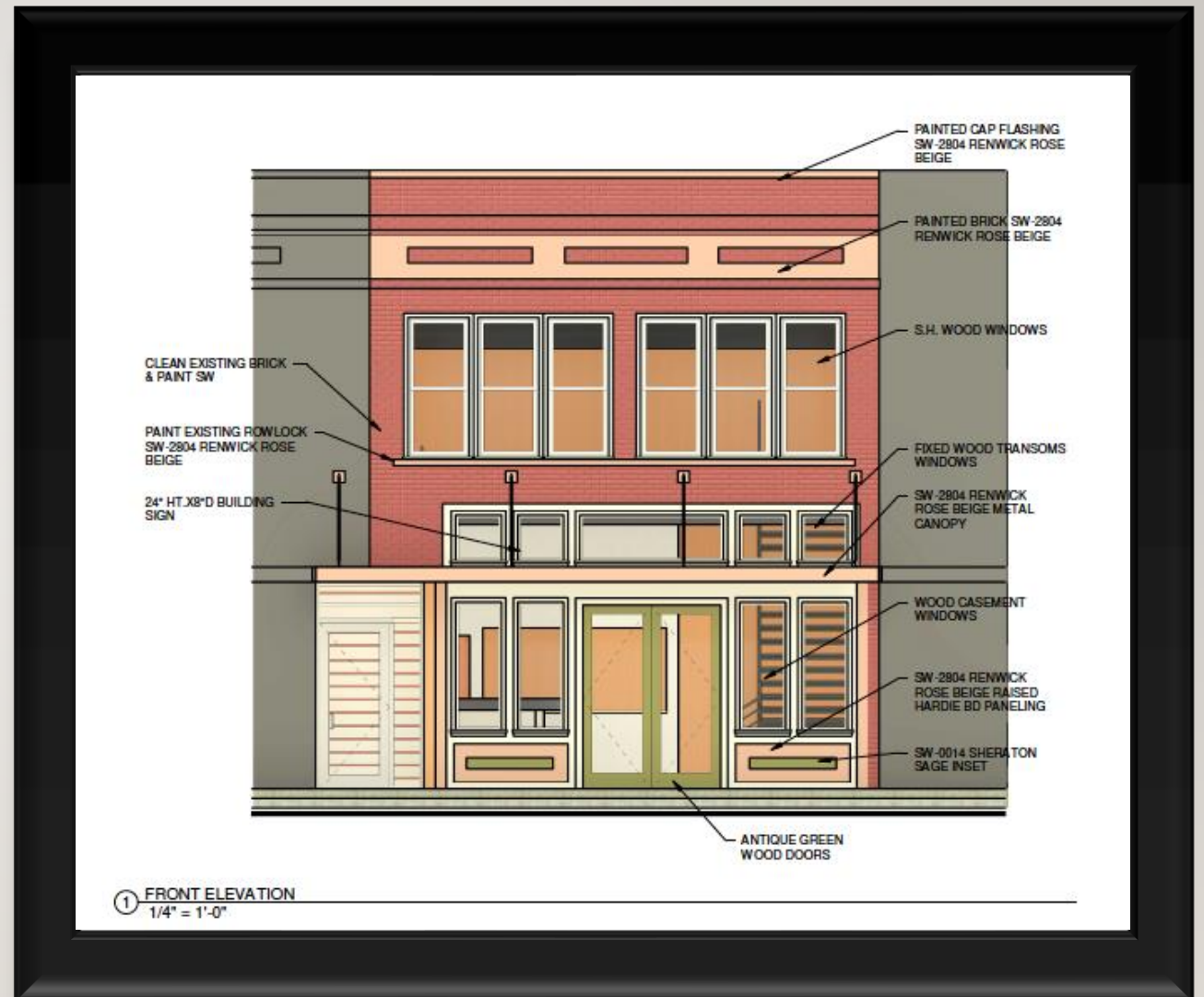
FACADE GRANT

- Side by Side



FACADE GRANT

- Materials Detail



FACADE GRANT

- The Tenant !



FACADE GRANT

- About Voodoo Brewing
 - 18 locations nationally
 - Local Ownership
 - Great Food Selection
 - Extensive Craft Beer Selection

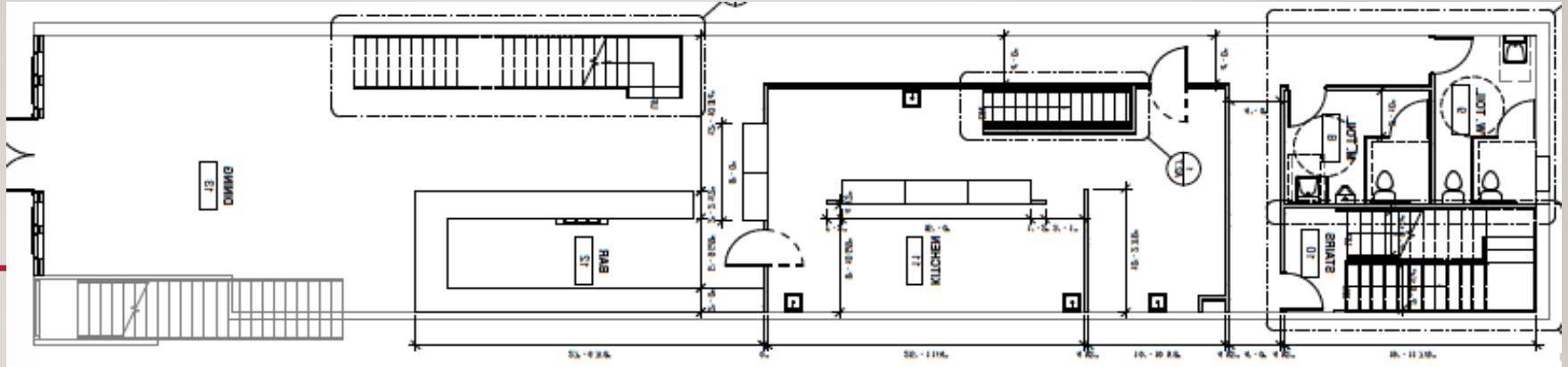


FACADE GRANT

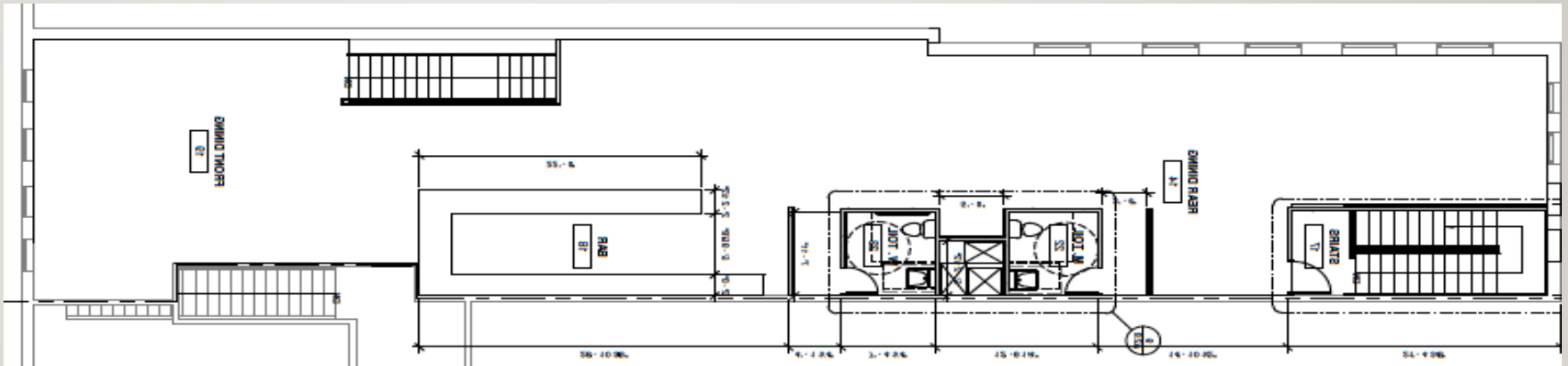
- Voodoo Investment
 - 2 floor restaurant & bar (6000 sf)
 - Complete interior renovation
 - Demo underway now
 - New structural for rooftop units
 - All new glass / operable windows
 - All new MEP's
 - \$1mm + budget

VOODOO PLANS

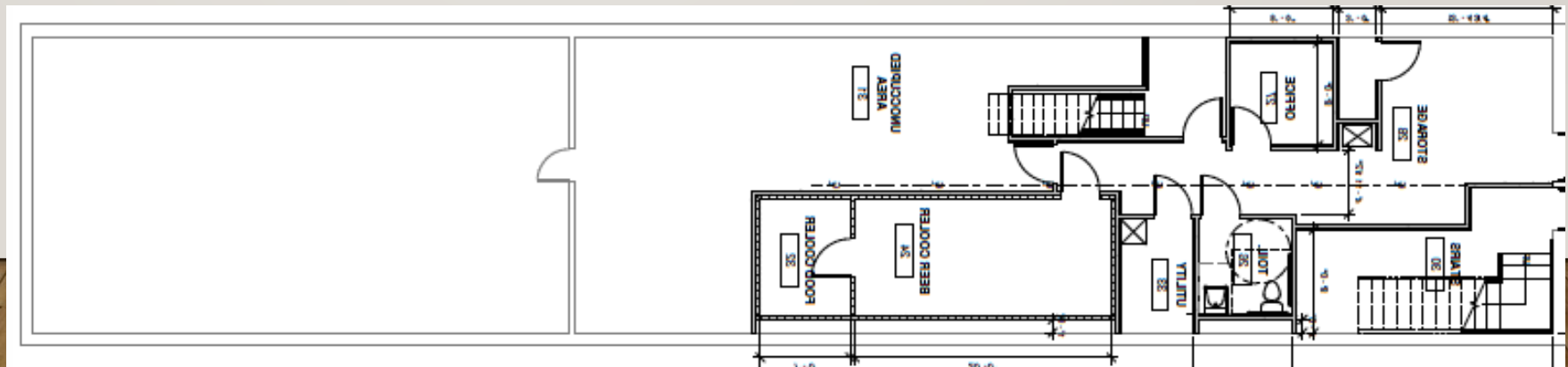
- 1st Floor



- 2nd Floor



- Basement



FACADE GRANT

- Questions?
- We appreciate your consideration and ask for your recommendation for approval.





February 23, 2024

Greg Johnson, Verus Commercial
3190 Teasley Lane
Denton, TX 76205

RE: 116 W Oak Street – Front (South) Façade Exterior Alterations

Dear Mr. Johnson:

On October 9, 2023, staff approved your Certificate of Design Consistency (DCC) application, on behalf of the City of Denton, for the alteration of the front (south) facade of the commercial building at 116 W Oak Street. The proposed improvements (see Exhibits A and B) were pursuant to Sections 4.10.7C and 4.10.7D of the Denton Development Code:

Façade Standards

- *Existing unpainted brick and stone facades must not be painted.*
- *The ground floor of buildings must include a minimum of three (3) elements of architectural relief at least every twenty-five (25) linear feet. These elements must comply with other applicable Design Standards, and may include, but are not limited to, the following:*
 - *Doors*
 - *Change in depth*
 - *Columns or posts*
 - *Windows*
 - *Awnings*
 - *Changes in materials*
 - *Other elements of architectural relief may be approved by the Director if they are determined to meet the Overall Purpose and Intent of the District.*

Fenestration, Glazing, and Entry Standards

- *Ground floor windows must use clear glass (80% minimum Visible Light Transmittance). All window glass must allow a minimum 60% Visible Light Transmittance and must not exceed 15% Visible Light Reflectance when measured at a perpendicular angle. The use of Low Emissivity (Low-E) glass is permitted.*
- *Primary building entrances must be clearly articulated, preferably with a covered-projected type of entry. Options, which must meet all applicable Design Standards, include:*
 - *Awnings*
 - *Canopies*
 - *Recessed entry*

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

- *Other similar treatments may be approved by the Director if they are determined to meet with the Overall Purpose and Intent of the District.*
- *Awnings, canopies, and other covered-projected types of building features are permitted to encroach partially into the public right-of-way, but do require completion and approval of a City of Denton Right-of-Way Use permit/application.*
- *Awning, canopies, and other covered-projected types of building features must comply with the following:*
 - *Must be placed so as to provide weather protection for pedestrians.*
 - *Must be consistent in height with similar covered-projected features on adjacent or joining buildings.*
 - *Must be mounted in locations that do not obscure ornamental features over storefronts, such as rooflines, arches, and banding.*
 - *Must not exceed the width of the sidewalk*
 - *Must not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the City of Denton property maintenance code shall apply.*
 - *Must not have a dome or convex frame.*
 - *Colors of awnings, canopies, and other covered-projected types of building features must enhance and complement the building to which they are attached, rather than overwhelm the building scheme. Colors must not call more attention to the projected-covered building feature than the building.*
 - *The frame structure of such building features must be finished to match the metal storefront system color or the fabric color of the associated projected-covered type of building feature.*
 - *Such building features are not prohibited from encroaching partially into the public right-of-way, provided that a City of Denton Right-of-Way Use permit/application has been completed and approved.*

On February 23, 2024, staff received revised plans from the applicant that showed the following changes (see Exhibit C):

- Removal of the columns; and
- Removal of the recessed entry

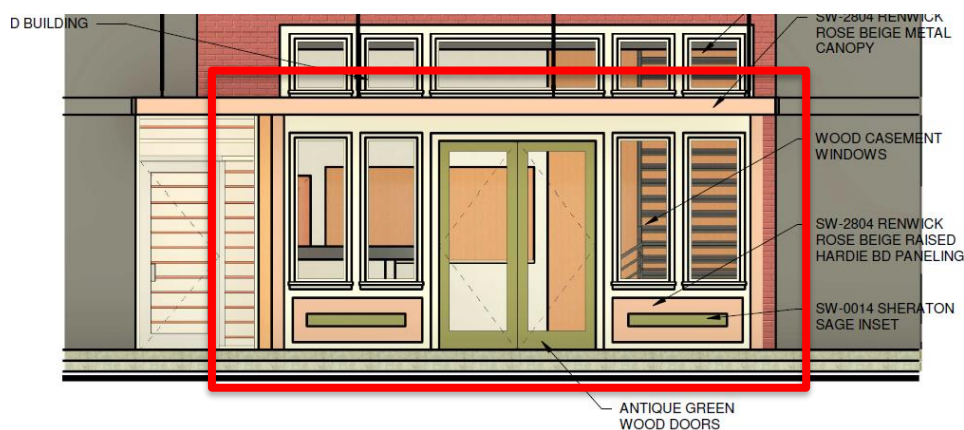


Figure 1: New Proposed Entryway

Per staff's review of the material provided, and per Sections 4.10.7C and 4.10.7D above, the amendment to the plans has been administratively reviewed and approved by the Historic Preservation Officer.

Please note that any work that deviates from the amended work proposed above and within the exhibits will require a new DCC. Additionally, if the applicant has received funding through the Downtown Reinvestment Grant Program, any work deviations should be discussed with staff prior to permitting to keep the applicant in substantial conformance with the program.

Please use this approval letter as a record of staff's review. If you have any questions or require additional information, please contact me at (940) 349-8532 or via email at cameron.robertson@cityofdenton.com.

Sincerely,

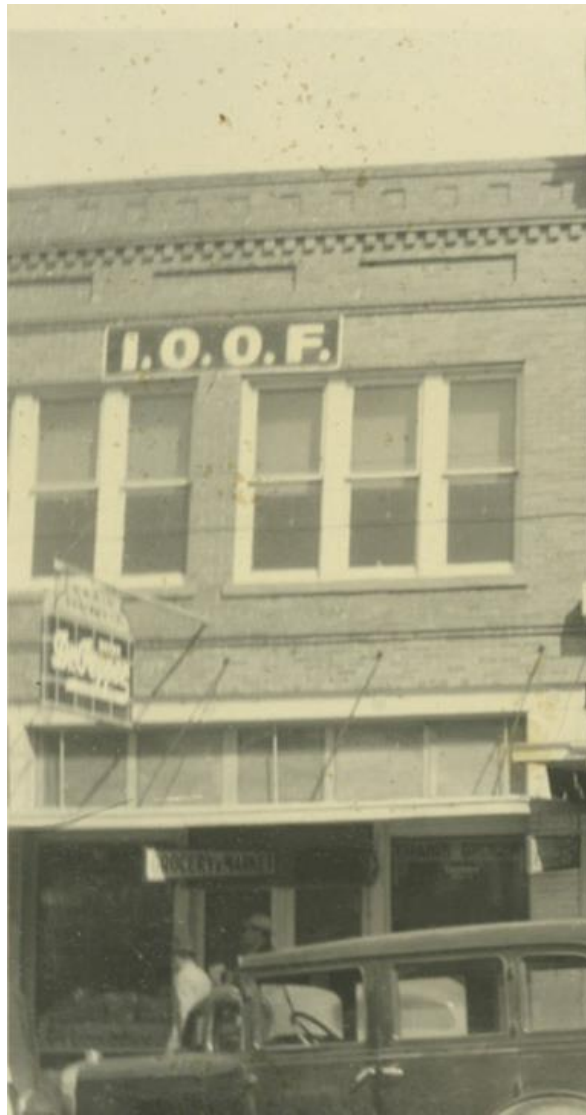
A handwritten signature in black ink, appearing to read "CAMERON ROBERTSON".

Cameron Robertson, AICP
Historic Preservation Officer

Exhibit A

Proposed Exterior Renovation

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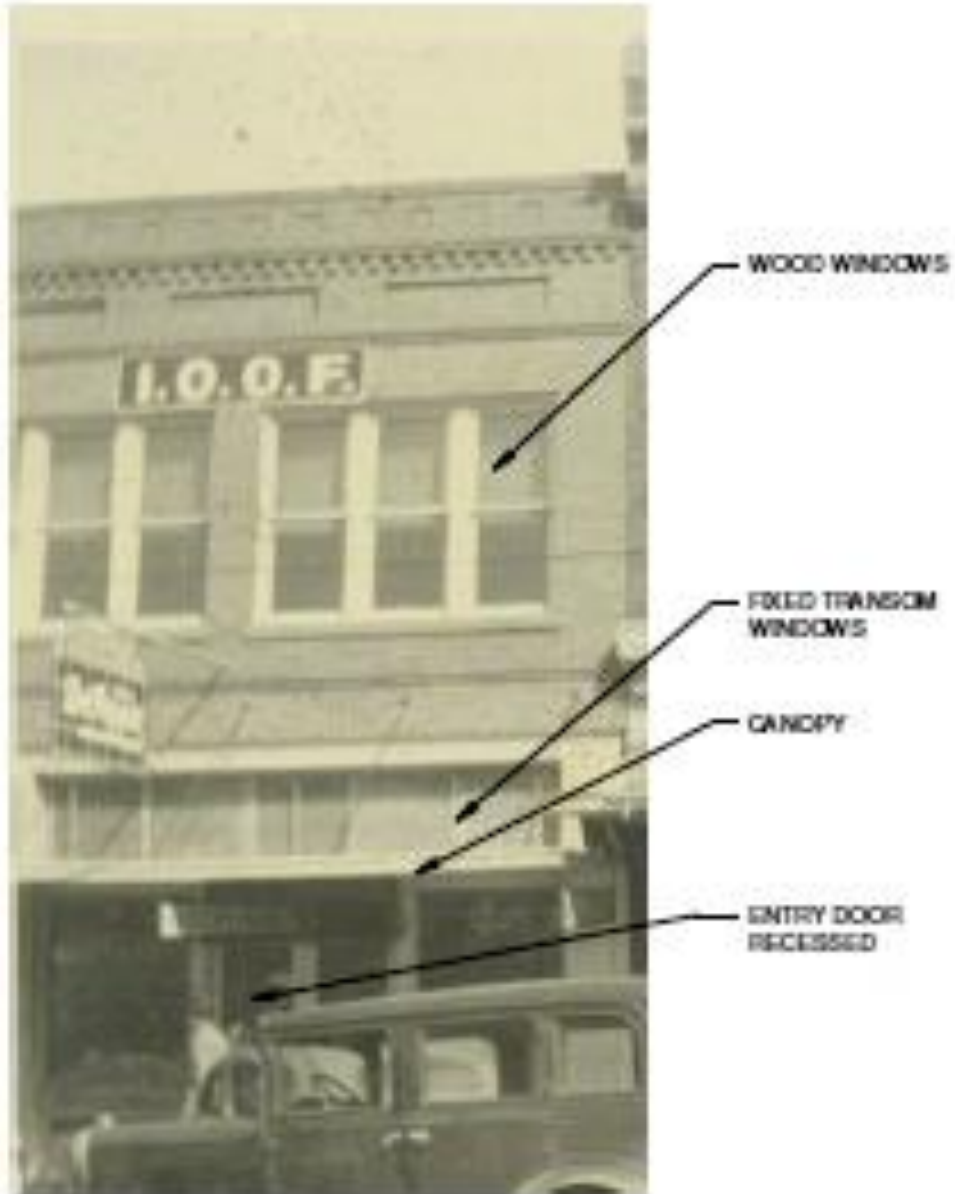
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Existing w/ Notes



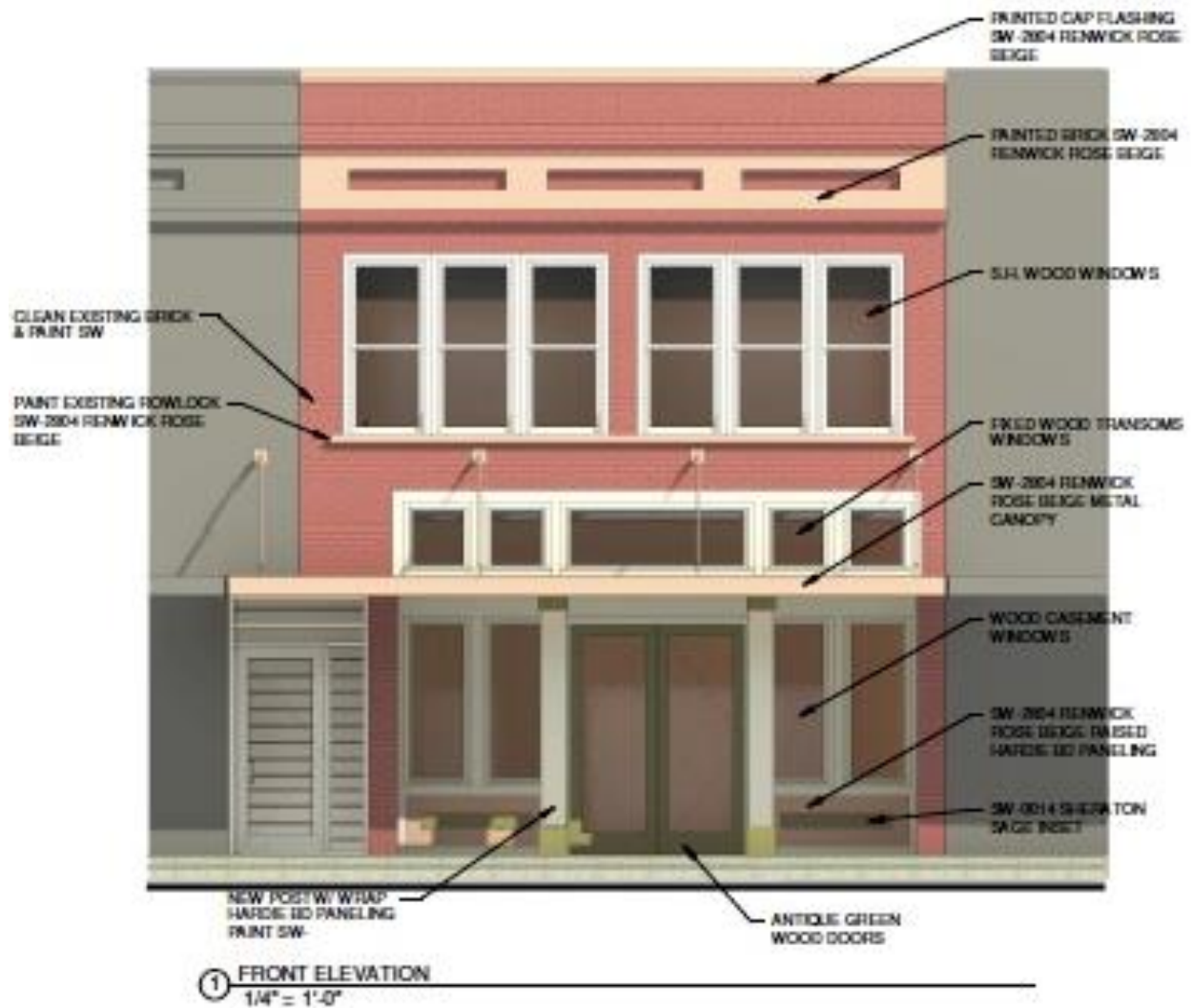
⑤ BUILDING TODAY
1/4" = 1'-0"

1938 w/ Notes



⑥ 1938 HISTORICAL PHOTO
1/4" = 1'-0"

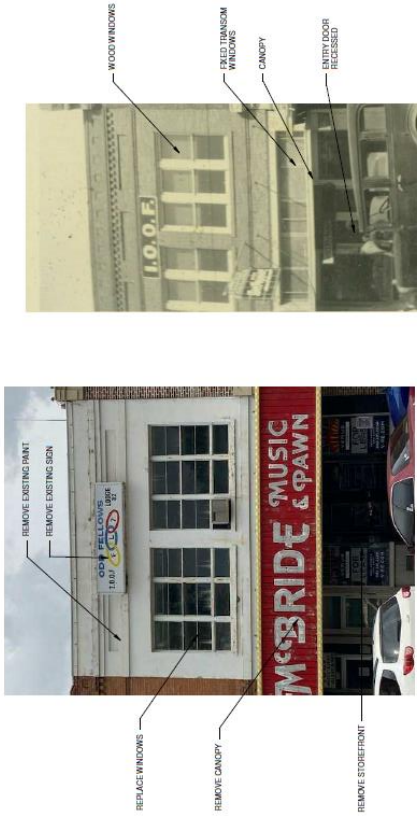
Conceptual Rendering w/ Notes – PREVIOUSLY APPROVED PLANS



Side by Side View



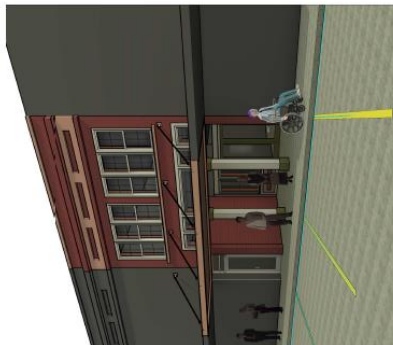
Exhibit B – PREVIOUSLY APPROVED PLANS



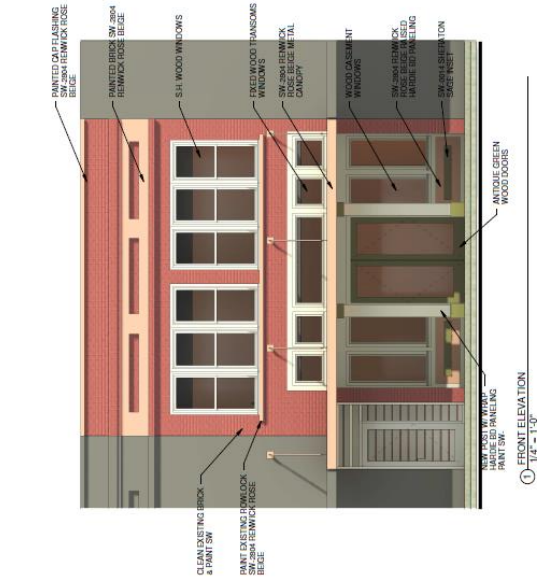
6 1938 HISTORICAL PHOTO
1/4" - 1.0"



091823 RENDERING



③ 3D View 3



1 FRONT ELEVATION
1/4" = 1'-0"



② 3D View 4



④ 3D View 1

Exhibit C – AMENDED PLANS

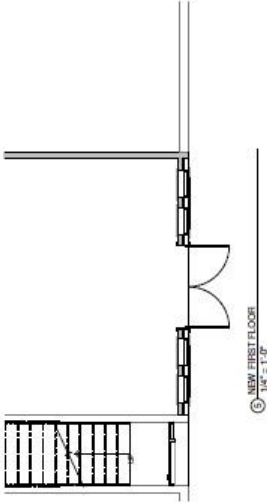
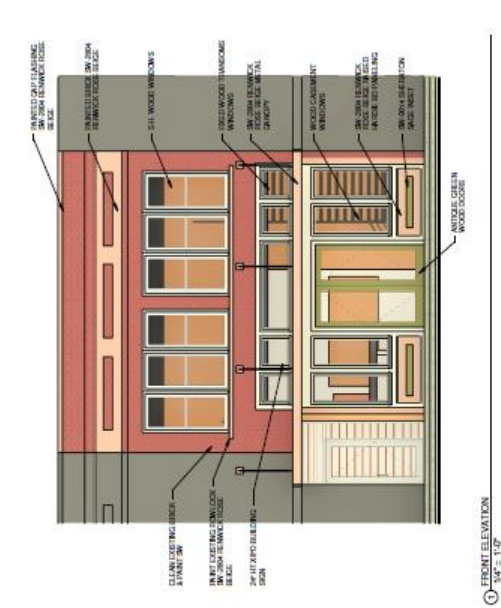


Exhibit 4-LLC Search



Texas Secretary of State

Jane Nelson

UCC

Business Organizations

Trademarks

Notary

Account

Help/Fees

Briefcase

Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

805577456

Entity Type:

Foreign Limited Liability Company (LLC)

Original Date of Filing:

June 3, 2024

Entity Status:

In existence

Formation Date:

N/A

FEIN:

922637792

Tax ID:

32095376680

Name:

Green Eggs & Ham, LLC

Address:

1309 Coffeen Avenue Suite 1200
Sheridan, WY 82801 USA

Fictitious Name:

N/A

Jurisdiction:

WY, USA

Foreign Formation Date:

March 1, 2023

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATES
<div>Last Update</div> <div>June 6, 2024</div>	<div>Name</div> <div>John M. Hicks</div>	<div>Title</div> <div>Governing Person</div>	<div>Address</div> <div>3100 Monticello Ave., Suite 975 Dallas, TX 75205 USA</div>		

Order

Return to Search



City of Denton

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

Legislation Text

File #: ID 24-1492, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: Economic Development

ACM: Christine Taylor, Assistant City Manager

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton approving a grant to Green Eggs & Ham, LLC for improvements located at 116 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

BACKGROUND

The building at 116 W. Oak was home to McBride's Music & Pawn for 52 years when it closed to merge with another pawn shop, resulting in its relocation outside Denton. The building's exterior and interior remained largely unchanged during those years, resulting in a building façade needing significant repairs.

In the spring of 2023, Mr. Hicks, an existing Downtown investor, purchased the building. He plans to invest significantly in 116 W. Oak to renovate the building as close as possible to its 1938 roots, changing its current use of retail to a restaurant. Additionally, the building owner will take advantage of the vacant building and install fire suppression on all three floors of the historic building.

The Historic Preservation Officer, Cameron Roberts, provided historical photos of the building and connected the applicant with the Texas Historic Commission architect to assist in finding a design solution that met the goals of the property owner and the Secretary of the Interior Standards for properties within the National Registry District. The renovation will result in a building reminiscent of the 1938 photo provided in the application backup. Updates to the exterior of the building include uncovering the original brick, if possible, replacing the awning with a new steel flat awning consistent with the 1938 photo, installing new glass in the currently hidden transom windows, and replacing current windows with energy-efficient ones. Construction will remove the retail display windows and recessed entry on the street level façade and pull the entry to the sidewalk/building edge. While the McBride Music & Pawn sign will no longer be on the front of the building, the new tenant will use it as décor on the inside, and the new building awning will host a tribute to the sign by having the same lightbulb illumination. The new tenant will use all three floors of the building, using the basement for receiving and redirecting delivery trucks from W. Oak St. onto W. Pecan St. The building will have custom bi-fold windows on the second floor, taking full advantage of the weather and ambiance of the Square. Removing the existing sign and awning will allow the transom windows to be used again. The building will be retrofitted with steel beams to support the 10 tons of HVAC on the roof. This new business will add about 45 new jobs to the Downtown area.

The project is located within the Downtown TIRZ #1 and Downtown Square Districts. It has been reviewed by the Historic Preservation Officer for Design Consistency, as outlined in the Denton Development Code Section 4.10.1, and approval was received to proceed with the proposed updates to the building façade. The

new business will complete the Tenant Finish Out (TFO), and those costs will not be included in the grant program.

Projected Improvements include: Fire Suppression System

Project Submitted Expenses: \$159,804

Grant Request: \$50,000

Applicable Policy Limits:

- *Fire Suppression Systems:* Installation of a new fire suppression system or necessary updates to an existing fire suppression system in accordance with the International Fire Code (IFC) and International Building Code Chapter 9, currently followed by the City of Denton. Grant Limits: Fire Suppression System grants are limited to a 50% match with a cap of \$ 50,000 per grant.

PRIOR ACTION/REVIEW

February 1, 2024 – Downtown Economic Development Committee (DEDC) reviewed and scored the application. The fire suppression application automatically receives the maximum points, making it eligible for a recommendation of up to \$50,000. This score supports the recommendation to approve the application as requested. The grant application request and DEDC recommendation is for \$50,000.

February 28, 2024 – Downtown Denton Tax Increment Reinvestment Zone Number One Board reviewed the application and voted to recommend City Council approve the Downtown Reinvestment Grant Program application for Fire Suppression in the amount not to exceed \$50,000, as recommended by the DEDC for Green Eggs and Ham LLC., located at 116 W. Oak St.

OPTIONS

1. Recommend approval of grant as recommended by the TIRZ #1 Board.
2. Recommend a lesser amount than recommended by the TIRZ #1 Board.
3. Do not recommend approval of the grant application.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Ordinance and Agreement

Exhibit 3 – Presentation

Exhibit 4 – HPO Review

Exhibit 5 – LLC Search

Respectfully submitted:
Kristen Pulido
Main Street Program Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON APPROVING A GRANT TO GREEN EGGS & HAM, LLC FOR IMPROVEMENTS LOCATED AT 116 W. OAK ST. FROM THE DOWNTOWN REINVESTMENT GRANT PROGRAM FOR A FIRE SUPPRESSION GRANT IN AN AMOUNT NOT TO EXCEED \$50,000 FROM TIRZ FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 3, 2007, the City Council approved the Downtown Reinvestment Grant Program (the “Program”) by Ordinance No. 2007-072; and

WHEREAS, on December 14, 2021, the City Council approved changes to the Program by Ordinance No. 21-2626; and

WHEREAS, Green Eggs & Ham, LLC, owner of the property located at 116 W. Oak St. (the “Property”), applied for a \$50,000.00 fire suppression grant in accordance with the Program; and

WHEREAS, the Tax Increment Financing Reinvestment Zone Number One Board and the Downtown Economic Development Committee reviewed the application in accordance with the Program and recommend a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and

WHEREAS, it is in the public interest and benefits the Downtown TIRZ to award the Downtown Reinvestment Grant, thereby protecting public health and safety, stimulating economic development, and promoting desired redevelopment in the downtown area of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations in the preamble of this ordinance are found to be true and incorporated herein by reference as if fully set forth in the body of this ordinance.

SECTION 2. The City Council of the City of Denton hereby approves the Agreement attached hereto authorizing a fire suppression grant in an amount not to exceed \$50,000.00 from the Program.

SECTION 3. The City Manager, or their designee, is hereby authorized to execute the Agreement and to carry out the duties and responsibilities of the City, including the expenditure of funds as provided in the Agreement.

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 _____; 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

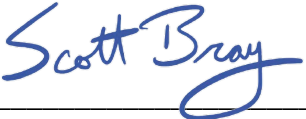
PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____
Scott Bray, Deputy City Attorney

DOWNTOWN REINVESTMENT GRANT AGREEMENT

This Downtown Reinvestment Grant Agreement (the “Agreement”) is entered into by and between the City of Denton, Texas (the “City”), duly acting herein by and through its City Manager, and Green Eggs & Ham Investments, LLC, a Wyoming limited liability company authorized to do business in Texas with a principal place of business at 1309 Coffeen Avenue Suite 1200, Sheridan, Wyoming 82801 (“Owner”).

WHEREAS, the City Council of Denton, Texas (the “City Council”) has, by Ordinance No. 2007-072, elected to offer downtown reinvestment grant incentives and has adopted guidelines and criteria governing downtown reinvestment grant incentive agreements known as the Downtown Reinvestment Grant Program Policy (the “Program”), a copy of which is on file in the City of Denton Economic Development Office and which is incorporated herein by reference; and

WHEREAS, the Program constitutes appropriate “guidelines and criteria” governing downtown reinvestment grant incentive agreements to be entered into by the City;

WHEREAS, the Owner will be the owner or have a leasehold interest, as of the Effective Date (as hereinafter defined), of certain real property more particularly described in Exhibit “A” attached hereto and incorporated herein by reference and made a part of this Agreement for all purposes (the “Premises”); and

WHEREAS, on the 11th day of October, 2023, Owner submitted an application for a reinvestment grant with various attachments to the City concerning the contemplated use of the Premises (the “Application”), which is attached hereto and incorporated herein by reference as Exhibit “B”; and

WHEREAS, the City Council of the City of Denton finds that the contemplated use of the Premises, the Improvements (as hereinafter defined) to the Premises as set forth in this Agreement, and the other terms hereof are consistent with encouraging development in accordance with the purposes and are in compliance with the Program and similar guidelines and criteria adopted by the City and all applicable law;

NOW, THEREFORE, the City Manager and Owner for and in consideration of the premises and the promises contained herein do hereby contract, covenant, and agree as follows:

I.

TERMS AND CONDITIONS OF REIMBURSEMENT GRANT

A. In consideration of and subject to the Owner meeting all the terms and conditions of reimbursement set forth herein, the City will pay to the Owner the following reimbursement grant:

1. A reimbursement of a grant in an amount not to exceed \$50,000.00 (the “Grant”) attributable to new Improvements, as hereinafter defined, being constructed on the Premises.

2. The Grant will be distributed to Owner as a lump sum reimbursement upon completion of the Project, the receipt of adequate documentation of expenditure of the Grant amount on costs necessary and related to the Improvements as described in Exhibit "B" attached hereto, and approval of the completed Improvements by the City.

B. A condition of receiving the Grant is that, by August 6, 2025, Owner will complete the installation of fire suppression improvements as described in Exhibit "B" (collectively, the "Improvements") on the Premises.

C. A condition of the Reimbursement is that the Improvements be completed and used substantially in accordance with the description of the project set forth in Exhibit "B" and comply with the requirements of the Program.

D. Owner agrees to comply with all the terms and conditions set forth in this Agreement.

E. The parties expressly understand and agree that City's payment of the Grant is contingent upon City's receipt and appropriation of adequate funds to pay the Grant. If adequate funds are not available to make the payment under this Agreement, City may, at its option, either reduce the amount of the Grant or terminate the Agreement.

F. It is expressly understood that this Agreement in no way obligates the City to provide more funds than the Grant amount.

II. CONDITION OF REIMBURSEMENT

A. Prior to payment of any portion of the Grant, all ad valorem real property taxes with respect to the Premises and all other property in the City owned by the Owner shall be current.

B. Prior to the payment of any portion of the Grant, Owner shall have constructed the Improvements as specified in Exhibit "B."

C. If alterations to the any portion of the Improvements are made for any reason within one (1) year from final payment of the Grant without prior approval by City, Owner is required to reimburse the City in the full amount of the Grant.

D. Prior to the award of the Grant, Owner shall own or have a leasehold interest in the Premises.

III.
RECORDS AND EVALUATION OF PROJECT

A. The Owner shall provide access and authorize inspection of the Premises by City employees and allow sufficient inspection of financial information related to construction of the Improvements to ensure that the Improvements are made, and performance thresholds are met according to the specifications and conditions of this Agreement. Such inspections shall be done in a way that will not interfere with Owner's business operations.

IV.
GENERAL PROVISIONS

A. The City has adopted guidelines and criteria for the Program that allow it to enter into this Agreement containing the terms set forth herein.

B. The City has determined that procedures followed by the City to enter into this Agreement and the obligations of the parties to this Agreement conform to the requirements of the Code and the Program.

C. In the event of any conflict between the City zoning ordinances, or other City ordinances or regulations, and this Agreement, such ordinances or regulations shall control.

D. Owner represents and warrants that Owner is authorized to make the Improvements to the Premises.

V.
NOTICE

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designated in writing, by certified mail postage prepare, by hand delivery or via facsimile:

OWNER:

John Hicks
Green Eggs & Ham Investment, LLC
7420 FM 2449
Ponder, TX 76259

CITY:

Sara Hensley, City Manager
City of Denton
215 East McKinney
Denton, Texas 76201
Fax No. 940.349.8596

VI.
CITY COUNCIL AUTHORIZATION

This Agreement was authorized by the City Council by passage of Ordinance No. _____ authorizing the City Manager to execute this Agreement on behalf of the City.

VII.
SEVERABILITY

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word. In the event that (i) the term of the Grant with respect to any property is longer than allowed by law, or (ii) the Grant applies to a broader classification of property than is allowed by law, then the Grant shall be valid with respect to the classification of property abated hereunder, and the portion of the term, that is allowed by law.

VIII.
OWNER STANDING

Owner, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and Owner shall be entitled to intervene in said litigation.

IX.
APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is fully performable in Denton County, Texas. Venue for any action under this Agreement shall be in Denton County, Texas.

X.
ENTIRE AGREEMENT

This instrument with the attached exhibits contains the entire agreement between the parties with respect to the transaction contemplated in this Agreement.

XI.
BINDING

This Agreement shall be binding on the parties and the respective successors, assigns, heirs, and legal representatives.

XII.
COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XIII.
SECTION AND OTHER HEADINGS

Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

XIV.
NO JOINT VENTURE

Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby disavowed.

XV.
AMENDMENT

This Agreement may be modified in writing by the parties hereto to include other provisions which could have originally been included in this Agreement or to delete provisions that were not originally necessary to this Agreement.

XVI.
FORCE MAJEURE

If, because of flood, fire, explosions, civil disturbances, strikes, war, acts of God, or other causes beyond the control of either Party, either Party is not able to perform any or all of its obligations under this Agreement, then the respective Party's obligations hereunder shall be suspended during such period but for no longer than such period of time when the party is unable to perform.

XVII.
INDEMNIFICATION

OWNER SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH DIRECTLY OR INDIRECTLY ARISES FROM CITY'S GRANT AND OWNER'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER AND ANY CONTESTS OR CHALLENGES TO THE LEGAL AUTHORITY OF THE CITY OR OWNER TO ENTER INTO THIS AGREEMENT AND ANY AND ALL LIABILITIES, LOSSES, COSTS OR EXPENSES (INCLUDING ATTORNEY'S FEES AND DISBURSEMENTS) THAT ANY INDEMNITEES SUFFER OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT OWNER SHALL HAVE NO OBLIGATION UNDER THIS PARAGRAPH TO THE CITY WITH RESPECT TO ANY OF THE FOREGOING ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR THE BREACH BY THE CITY OF THIS AGREEMENT.

This Agreement is executed to be effective on the executed date of the ____ day of _____, 2024, (the “Effective Date”) by duly authorized officials of the City and Owner.

CITY OF DENTON

SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray

Scott Bray, Deputy City Attorney

OWNER:
GREEN EGGS & HAM, LLC

DocuSigned by:
John Hicks
By: _____
2CCA852DF0FD4A6...
JOHN HICKS, Governing Person

EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Extracted from General Warranty Deed, file 2023-1178, Denton County Clerk Recorder

BEING THE EAST 1/2 OF LOT 2, BLOCK 5, OF THE ORIGINAL TOWN OF DENTON, AN ADDITION TO DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4, PAGE 53, DEED RECORDS OF DENTON COUNTY, TEXAS.

EXHIBIT B
APPLICATION AND IMPROVEMENTS

EXHIBIT A



CITY OF DENTON
DOWNTOWN REINVESTMENT GRANT PROGRAM APPLICATION

Department of Economic Development
401 N. Elm St., Denton, TX 76201
940-349-7776
www.cityofdenton.com
ED@cityofdenton.com

Downtown Reinvestment Grant Program Application

Please return completed the application with necessary attachments and signatures to the Economic Development Department office at 401 N. Elm St., Denton, Texas. If you have any application questions, please contact the Economic Development Department at 940-349-7776.

Applicant Name MARK HICKS	Date 10/11/23
Business Name GREEN EGGS + HAM LLC	
Mailing Address 7420 FM 2449 PONDER, TX 76259	
Contact Phone 972-955-5653	Email Address MHicks@HicksLP.com
Building Owner (if different from applicant)	
Historical/Current Building Name 116 W. OAK (FORMER MCBRIDE'S PAWN)	
Project Site/Address 116 W. OAK ST., DENTON, TX 76201	

Type of Work: (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Paint Only
<input type="checkbox"/> Signage
<input type="checkbox"/> Utility Upgrades
<input type="checkbox"/> Facade & Building Renovation | <input type="checkbox"/> Awnings
<input type="checkbox"/> Impact Fees
<input type="checkbox"/> Interior/Code Improvements
<input checked="" type="checkbox"/> Fire Suppression System |
|---|--|

Details of planned improvements relating to grant request (attach additional information if necessary).

SEE ATTACHED DETAILED DESCRIPTION + BID

How will this project benefit Downtown?

PROTECT ALL ADJACENT BUILDINGS IN THE EVENT OF A FIRE.

Legal Description of the property:

OT DENTON BLK 5 LOT 2

Project Categories	Estimated Costs	Grant Requested
Facade/Building Rehab		
Awnings		
Signs		
Impact Fees		
Utility Upgrades		
Interior/Code Improvements		
Fire Suppression System	\$159,804	\$50,000
Totals		

TOTAL COST OF PROPOSED PROJECT

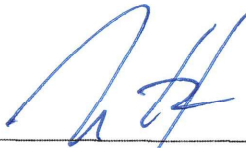
\$ 159,804

TOTAL GRANT REQUEST

(May not exceed 50% of TOTAL COST up to \$50,000)

\$ 50,000

Attach all required color samples of paint, awning/canopy, sign design, etc., as well as photographs of building's exterior facade, roof and foundation.


Applicant's Signature

10/19/23
Date

DOWNTOWN REINVESTMENT GRANT AGREEMENT FORM

Please complete and return with the Downtown Reinvestment Grant Application to the Economic Development office, 401 N. Elm St., Denton, Texas. If you have any questions, please contact the Economic Development Department at 940- 349-7776.

I have met with a representative from the Economic Development Department, and I have read and fully understand the Downtown Reinvestment Grant procedures established by the Denton City Council. I intend to use this grant program for the aforementioned renovation projects to advance the efforts of revitalization and historic preservation of Denton's historic downtown. *I have not received, nor will I receive insurance monies for this revitalization project.*

I understand that if I am awarded a Downtown Reinvestment Grant by the City of Denton, any deviation from the approved project may result in the partial or total withdrawal of the grant. (If I am awarded a reinvestment grant for facade, awning or sign work and the facade, sign or awning is altered for any reason within **one (1) year** from construction, I may be required to reimburse the City of Denton immediately for the full amount of the grant.)

GREEN EGGS + HAM LLC
 Business/Organization Name
 MARK HICKS 10/11/23
 Applicant's Signature Printed Name Date

 Building Owner's Signature (if different from applicant) Printed Name Date

This section is to be completed by Economic Development staff.

 Date considered by DEDC Recommendation Staff Signature

 Date considered by TIRZ #1 Board Recommendation Staff Signature

 Date considered by City Council Approval Staff Signature

Caliber Construction, Inc.
504 Chambers Street
Denton, Texas 76205
(940) 898-8784
(940) 591-0704 Fax

Job: Old McBrides Bld

Address: 116 Oak St

Date: 20-Oct-23

Area: Fire Sprinkler And Alarm

<u>Construction Costs</u>	<u>Estimate</u>
Demolition	
Sawcutting	1,500.00
Demolition Debris Disposal	
Soil Test	
Site Prep	
Water & Sewer Taps	
Water Line	
Fence Permit	
Building Permit	?
Foundation Engineering (Testing)	
Foundation Labor	
Arch & Eng&Tas	
Foundation Concrete	3,500.00
Retaining Wall	
Area Drains on eastside	
Stairs and railing	
Concrete Pump	
Septic System	
Plumbing Labor and Materials	
Fire Riser Room	5,600.00
Framing Labor	
Awning	
Insulation	
Trusses	
Office Finish Out	
Windows	
Front Doors	
Transoms/Sidelights	
Skylights	
Man Doors	
Store Front Door	
Overhead Doors 4	
Deck Pan Material	
Roofing	
Metal Roofing	
Waterproofing	
Valley Metal	
Tin Washers/Cement	
Felt Paper	
Fire Alarm	8,500.00

Fire Sprinkler	103,000.00
Computer Wires	
Electrical Materials	6,850.00
Electrical Service Revisions	
Garage Openers	
Garage Doors	
Cultured Stone	
Stone Fireplace Cap	
Stone Work	
Stucco	
Flue Finer	
CMU Block (Fireplace)	
Damper	
Mortar	
Sand	
Wall Ties	
Lentils Steel	
Chimney Caps	
Mason Labor	
Sheetrock Materials	
Sheetrock Labor	
Tape/Bed/Texture	
Acoustical Ceilings	
Wooden Ceiling Materials	
Decorative Wooden Beam Mat.	
Decorative Wooden Beam Labor	
Trim Materials	
Trim Labor	
Brick Mailbox/Metal Mailbox	
Cabinets	
Backsplash	
Stairway Material	
Insulation	
Pre-Cast Stone	
Ceramic Floor Tile	
Stained Concrete	
Wood Flooring	
Carpet	
Wall Paper Materials	
Wall Paper Labor	
Cook Top	
Oven	
Range Cord	
Refrigerator	
Garbage Disposal	
Dishwasher	
Microwave	
Vent Hood	
Compactor	
Wine Cooler	
Washer	
Dryer	
Dryer Cord	

Smoke Detectors	
Light Fixtures	
Chime Kit	
Ironing board	
Toilet Partitions	
Mason Labor "Firebox"	
Fireplace Mantle	
Bath Shower Tile	
Shower Doors and Glasswork	
Mirrors	
Master Shower Tile	
Master Tub Allowance	
Alarm System	
Hardware	
Cabinet Hardware	
Survey	
Agg/Patterned Concrete	
Remaining Flatwork	
Clean-Up Labor	550.00
Debris Disposal	350.00
Final Cleaning	
Plantation Shutters	
New Retaining Walls	
Existing Retaining Wall Replace	
Fence Repairs	
Site Grading	
Sprinkler System	
Landscaping	
Painter	
Gutters	
Septic System	
Granite Countertops	
Formica Countertops	
Existing Kitchen Granite Ctops	
Vanity Tops	
Fans/Light Kits	
Carpentry Materials	
Carpentry	650.00
Construction Costs Total	130,500.00
<u>Concrete Flatwork</u>	
Concrete Labor	
Concrete Materials	
Concrete Reinforcement	
Parking Lot Stripping	
Flatwork Total	0.00
Building Costs Total	130,500.00

<u>Soft Costs</u>	
RES Check Compliance Report	
AIA, Bonds	
General Liability	1,318.00
Builder's Risk	
Plans	
Form Placement Survey	
Utilities	
Water	
Portable Restrooms	
Construction Management	1,500.00
Overhead	1,350.00
Profit	13,050.00
Tax	12,086.74
Soft Costs Total	29,304.74
Grand Total	159,804.74

Certificate Of Completion

Envelope Id: 4AC1C963FEFB468A83581D069C116BAF

Status: Completed

Subject: Green Eggs and Ham LLC Agreements

Source Envelope:

Document Pages: 40

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

Vanessa Esparza

AutoNav: Enabled

901B Texas Street

Envelopel Stamping: Enabled

Denton, TX 76209

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

vanessa.esparza@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Vanessa Esparza

Location: DocuSign

7/17/2024 12:51:22 PM

vanessa.esparza@cityofdenton.com

Signer Events

John Mark Hicks

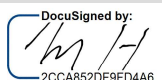
mhicks@hickslp.com

President

Hicks Lightning Protection

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:



2CCA852DF9FD4A6...

Signature Adoption: Drawn on Device
Using IP Address: 98.97.80.117
Signed using mobile

Timestamp

Sent: 7/17/2024 1:11:54 PM

Viewed: 7/17/2024 1:22:45 PM

Signed: 7/17/2024 1:23:00 PM

Electronic Record and Signature Disclosure:

Accepted: 12/21/2022 5:31:21 AM

ID: 76d175d9-ec27-4f64-b162-32eb340292ad

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**

Kristen Pulido

Kristen.Pulido@cityofdenton.com

Security Level: Email, Account Authentication
(None)**COPIED**

Sent: 7/17/2024 1:23:01 PM

Viewed: 7/17/2024 1:27:35 PM

Electronic Record and Signature Disclosure:

Accepted: 6/24/2024 12:13:23 PM

ID: ed7f8d84-5823-4a23-b6dc-54fe003a2078

Matilda Weeden

Matilda.Weeden@cityofdenton.com

Security Level: Email, Account Authentication
(None)**COPIED**

Sent: 7/17/2024 1:23:02 PM

Electronic Record and Signature Disclosure:

Accepted: 10/30/2023 12:08:58 PM

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Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp**

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/17/2024 1:11:54 PM
Certified Delivered	Security Checked	7/17/2024 1:22:45 PM
Signing Complete	Security Checked	7/17/2024 1:23:00 PM
Completed	Security Checked	7/17/2024 1:23:02 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.

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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.

116 W OAK FORMER MCBRIDE'S GRANT APPLICATION

FEBRUARY 28, 2024

FIRE SUPPRESSION

- Applaud the city for putting this program into place
- Impossible to do when a building is occupied, so when they turn over (doesn't happen often) is the time to do it.
- In order to make it impactful, we need to keep this program in place and be patient.
- \$50k doesn't even cover half of the cost but it makes a difference!
- Any questions about the application?

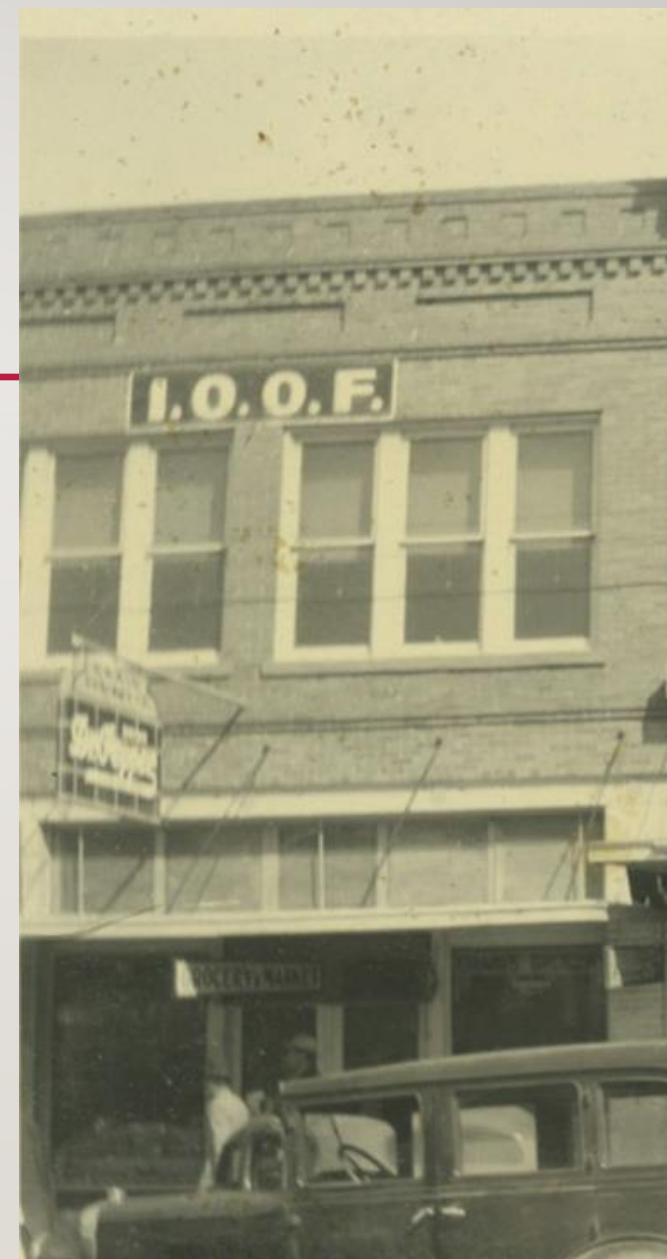
FACADE GRANT

- History
 - McBride's Music & Pawn for 52 years
 - Exterior & Interior largely unchanged during that time
 - Little unique visitor traffic generated
 - Little sales tax generated
 - Exterior not attractive
 - Not “a draw” to the square



FACADE GRANT

- Inspiration
 - Cameron Robertson provided some historical photos for inspiration
 - We've chosen this photo from 1938
 - Brick detail in concert with several others on the square



FACADE GRANT

- The Renovation
 - Brick/Paint
 - goal is to expose original brick removing paint
 - If can't then paint with approved paint color
 - Awning
 - New steel awning matching style of 1938 photo
 - Transom Windows above Awning
 - New windows installed where they were in 1938
 - Street Level
 - Application states desire to recess 20 feet. Staff preferred not to so front façade would match closer to 1938. Tenant has redesigned interior so recessed front not necessary. Will not have front flush from bottom to top. Yeah!



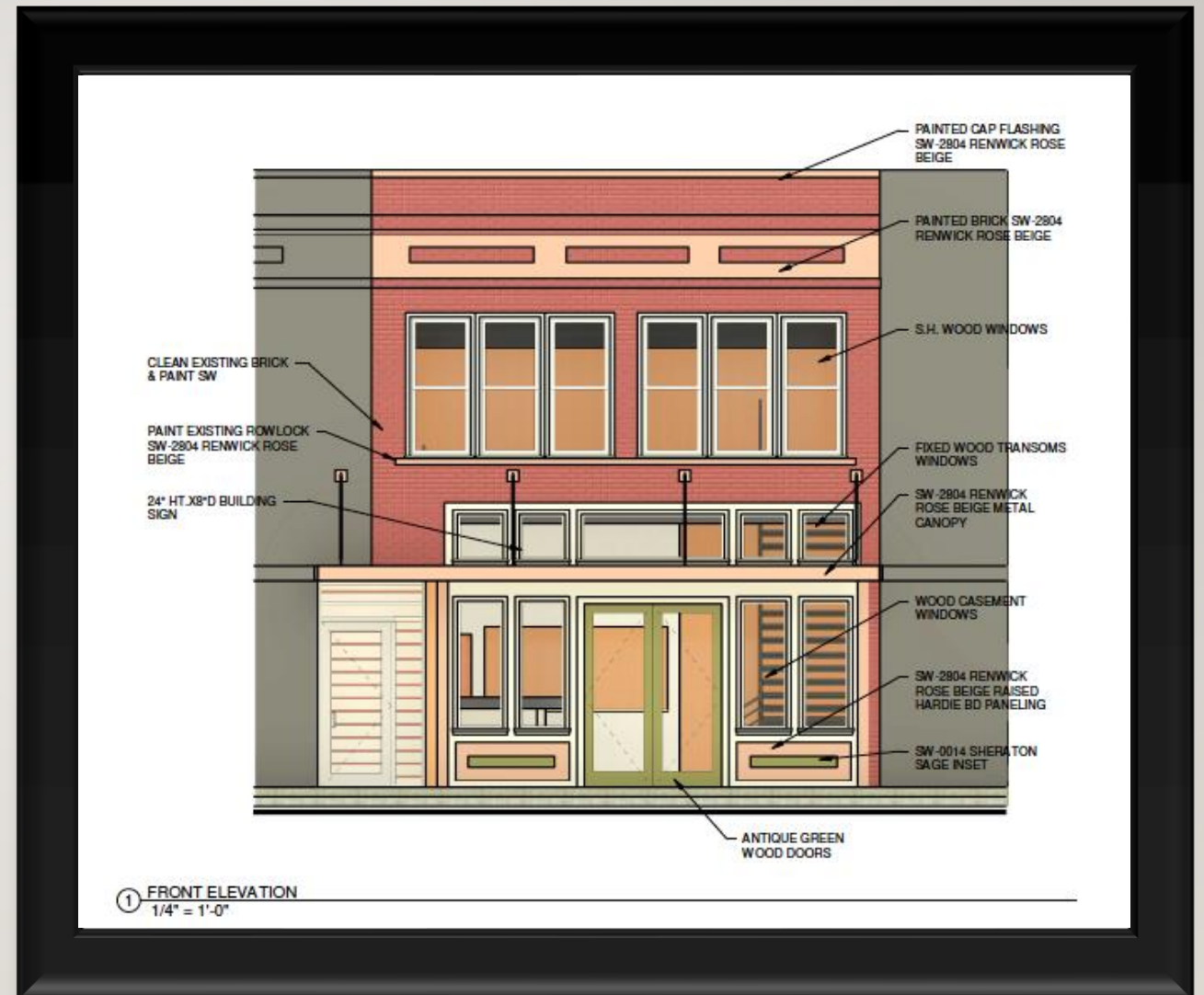
FACADE GRANT

- Side by Side



FACADE GRANT

- Materials Detail



FACADE GRANT

- The Tenant !



FACADE GRANT

- About Voodoo Brewing
 - 18 locations nationally
 - Local Ownership
 - Great Food Selection
 - Extensive Craft Beer Selection

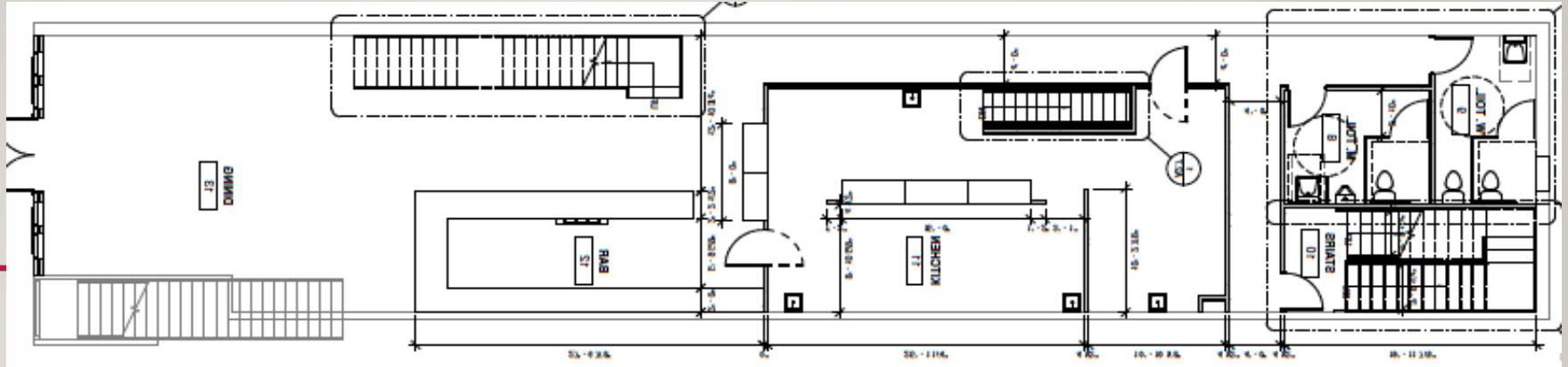


FACADE GRANT

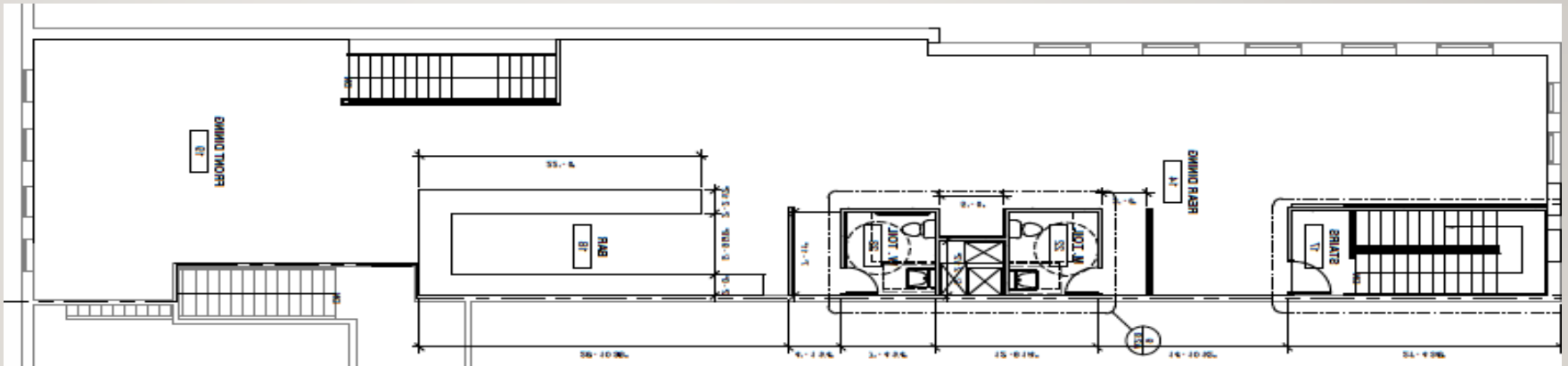
- Voodoo Investment
 - 2 floor restaurant & bar (6000 sf)
 - Complete interior renovation
 - Demo underway now
 - New structural for rooftop units
 - All new glass / operable windows
 - All new MEP's
 - \$1mm + budget

VOODOO PLANS

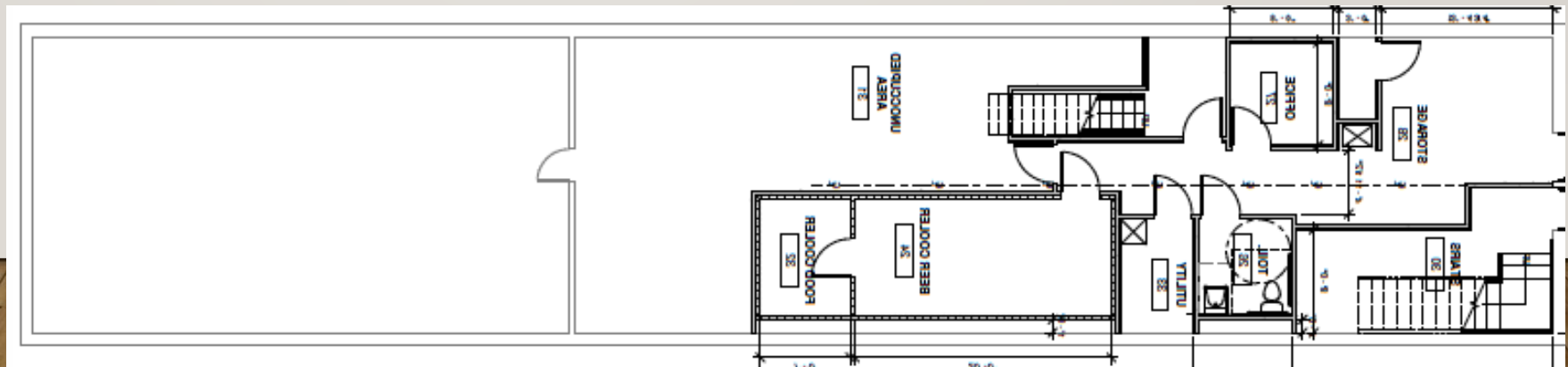
- 1st Floor



- 2nd Floor



- Basement



FACADE GRANT

- Questions?
- We appreciate your consideration and ask for your recommendation for approval.





February 23, 2024

Greg Johnson, Verus Commercial
3190 Teasley Lane
Denton, TX 76205

RE: 116 W Oak Street – Front (South) Façade Exterior Alterations

Dear Mr. Johnson:

On October 9, 2023, staff approved your Certificate of Design Consistency (DCC) application, on behalf of the City of Denton, for the alteration of the front (south) facade of the commercial building at 116 W Oak Street. The proposed improvements (see Exhibits A and B) were pursuant to Sections 4.10.7C and 4.10.7D of the Denton Development Code:

Façade Standards

- *Existing unpainted brick and stone facades must not be painted.*
- *The ground floor of buildings must include a minimum of three (3) elements of architectural relief at least every twenty-five (25) linear feet. These elements must comply with other applicable Design Standards, and may include, but are not limited to, the following:*
 - *Doors*
 - *Change in depth*
 - *Columns or posts*
 - *Windows*
 - *Awnings*
 - *Changes in materials*
 - *Other elements of architectural relief may be approved by the Director if they are determined to meet the Overall Purpose and Intent of the District.*

Fenestration, Glazing, and Entry Standards

- *Ground floor windows must use clear glass (80% minimum Visible Light Transmittance). All window glass must allow a minimum 60% Visible Light Transmittance and must not exceed 15% Visible Light Reflectance when measured at a perpendicular angle. The use of Low Emissivity (Low-E) glass is permitted.*
- *Primary building entrances must be clearly articulated, preferably with a covered-projected type of entry. Options, which must meet all applicable Design Standards, include:*
 - *Awnings*
 - *Canopies*
 - *Recessed entry*

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

- *Other similar treatments may be approved by the Director if they are determined to meet with the Overall Purpose and Intent of the District.*
- *Awnings, canopies, and other covered-projected types of building features are permitted to encroach partially into the public right-of-way, but do require completion and approval of a City of Denton Right-of-Way Use permit/application.*
- *Awning, canopies, and other covered-projected types of building features must comply with the following:*
 - *Must be placed so as to provide weather protection for pedestrians.*
 - *Must be consistent in height with similar covered-projected features on adjacent or joining buildings.*
 - *Must be mounted in locations that do not obscure ornamental features over storefronts, such as rooflines, arches, and banding.*
 - *Must not exceed the width of the sidewalk*
 - *Must not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the City of Denton property maintenance code shall apply.*
 - *Must not have a dome or convex frame.*
 - *Colors of awnings, canopies, and other covered-projected types of building features must enhance and complement the building to which they are attached, rather than overwhelm the building scheme. Colors must not call more attention to the projected-covered building feature than the building.*
 - *The frame structure of such building features must be finished to match the metal storefront system color or the fabric color of the associated projected-covered type of building feature.*
 - *Such building features are not prohibited from encroaching partially into the public right-of-way, provided that a City of Denton Right-of-Way Use permit/application has been completed and approved.*

On February 23, 2024, staff received revised plans from the applicant that showed the following changes (see Exhibit C):

- Removal of the columns; and
- Removal of the recessed entry

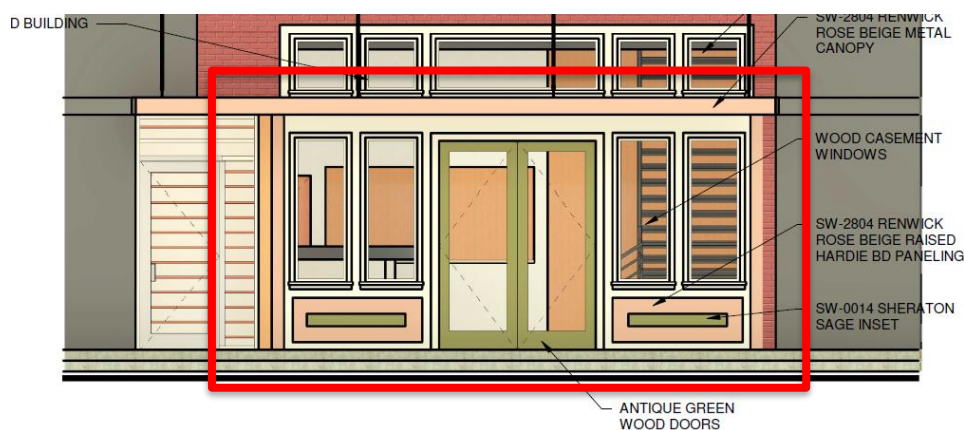


Figure 1: New Proposed Entryway

Per staff's review of the material provided, and per Sections 4.10.7C and 4.10.7D above, the amendment to the plans has been administratively reviewed and approved by the Historic Preservation Officer.

Please note that any work that deviates from the amended work proposed above and within the exhibits will require a new DCC. Additionally, if the applicant has received funding through the Downtown Reinvestment Grant Program, any work deviations should be discussed with staff prior to permitting to keep the applicant in substantial conformance with the program.

Please use this approval letter as a record of staff's review. If you have any questions or require additional information, please contact me at (940) 349-8532 or via email at cameron.robertson@cityofdenton.com.

Sincerely,

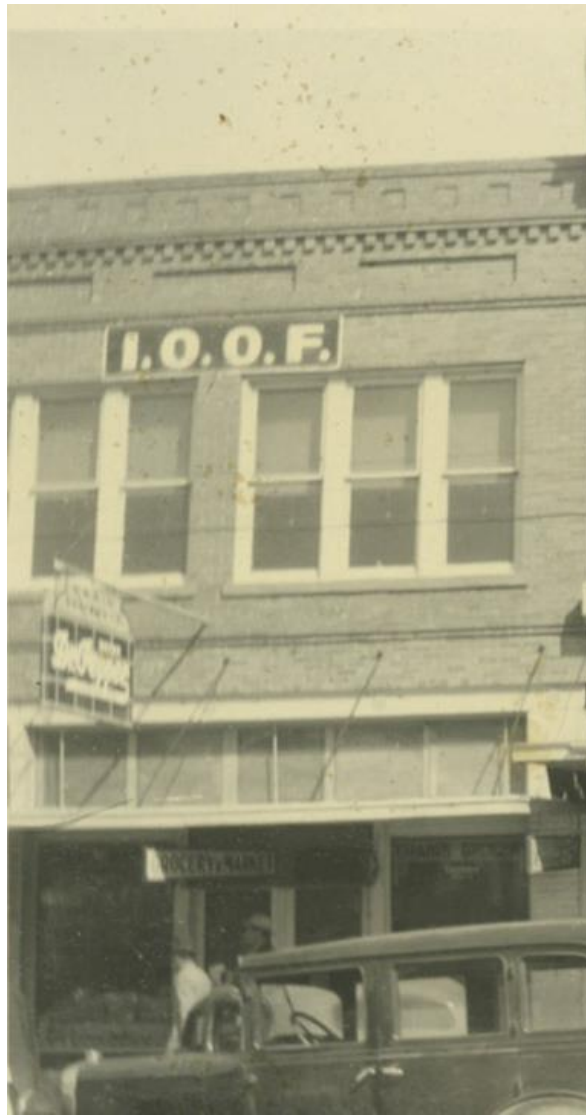
A handwritten signature in black ink, appearing to read "CAMERON ROBERTSON".

Cameron Robertson, AICP
Historic Preservation Officer

Exhibit A

Proposed Exterior Renovation

Cameron Robertson, Historic Preservation Officer, was very helpful in providing a variety of historical photos of the building in order for the applicant to choose a historically appropriate style to mimic for this renovation. We have chosen the exterior photo below circa 1938.



The Renovation

Brick / Paint: The goal is to remove the exterior paint revealing the original brick, however if the brick proves to deteriorate due to paint removal, we will paint the brick with a historically appropriate paint color from the Sherwin Williams Historic Color Palate as directed by Cameron. New brick columns street level will be painted to match the style in the 1938 photo.

Awning: The existing large awning is not structurally sound and is rusted, nor is it consistent with any of the historical photos. Since the requirement is to match a documented (with photo) historical style prior to 50 years prior to current date, keeping the existing awning would not be possible even if it were structurally sound. The plan is to install a new steel flat awning consistent with the 1938 photo which will reveal the transom windows.

Transom Windows: The transom windows were hidden when the large awning & sign were installed by McBride's, but the openings are still there. New windows will be installed in concert with the 1938 photo.

Street Level: Because the desired use is restaurant, we want to allow for a covered patio inset behind the front of the building (property line). The businesses on the square benefit from foot traffic and a vibrant active downtown, as has been proven over the last 10 years as more restaurants have located on the square. As you will see in the architects conceptual drawings, he has designed a front façade consistent with the vertical elements in the 1938 photo that captures the look and feel from 1938 while allowing the storefront entry to be inset about 20 feet. This will allow for patio dining while not obstructing the sidewalk (which can be a challenge in other areas of the square where restaurants place tables on the public property).

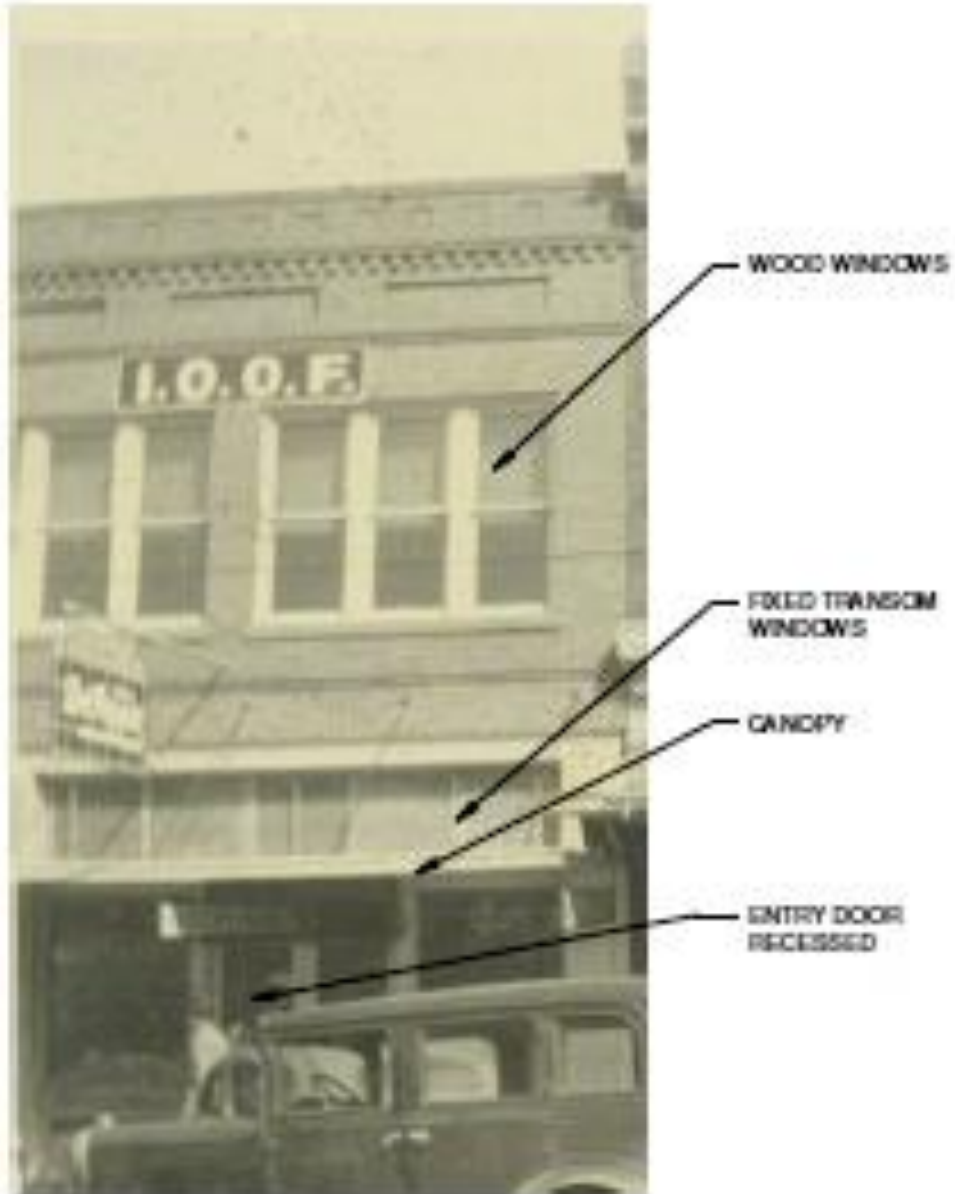
The existing old style inset entry with display windows on each side will be completely removed, allowing for usable patron dining space while achieving the 1938 look.

Existing w/ Notes



⑤ BUILDING TODAY
1/4" = 1'-0"

1938 w/ Notes



⑥ 1938 HISTORICAL PHOTO
1/4" = 1'-0"

Conceptual Rendering w/ Notes – PREVIOUSLY APPROVED PLANS



Side by Side View



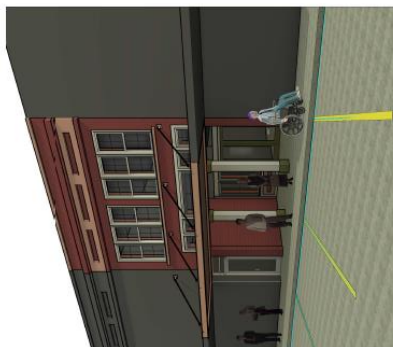
Exhibit B – PREVIOUSLY APPROVED PLANS



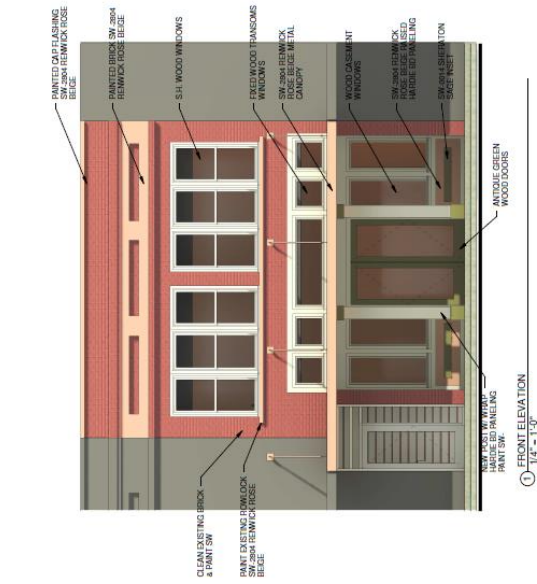
6 1938 HISTORICAL PHOTO
1/4" - 1'-0"



091823 RENDERING



③ 3D View 3



1 FRONT ELEVATION
1/4" = 1'-0"

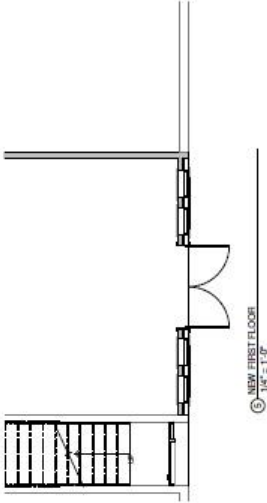
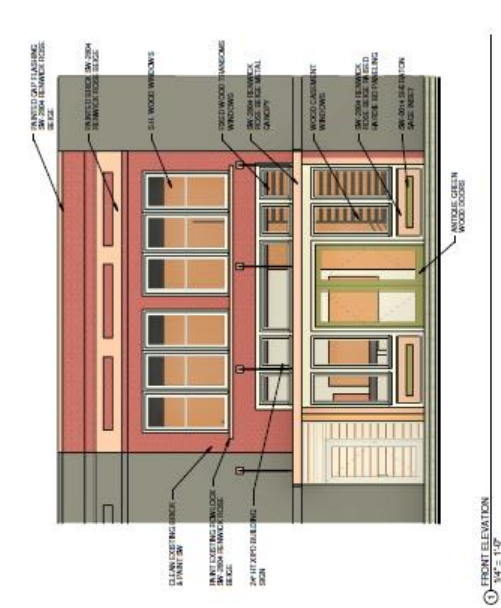


② 3D View 4



④ 3D View 1

Exhibit C – AMENDED PLANS



02224 EXTERIOR VIEW 1
1\"/>



02224 EXTERIOR VIEW 2
1\"/>



02224 EXTERIOR VIEW
1\"/>

Exhibit 4-LLC Search



Texas Secretary of State

Jane Nelson

[UCC](#)[Business Organizations](#)[Trademarks](#)[Notary](#)[Account](#)[Help/Fees](#)[Briefcase](#)[Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

805577456

Original Date of Filing:

June 3, 2024

Formation Date:

N/A

Tax ID:

32095376680

Name:

Green Eggs & Ham, LLC

Address:

1309 Coffeen Avenue Suite 1200
Sheridan, WY 82801 USA

Fictitious Name:

N/A

Jurisdiction:

WY, USA

Foreign Formation Date:

March 1, 2023

Entity Type:

Foreign Limited Liability Company (LLC)

Entity Status:

In existence

FEIN:

922637792

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATES
<div><div>Last Update</div><div>June 6, 2024</div></div>	<div><div>Name</div><div>John M. Hicks</div></div>	<div><div>Title</div><div>Governing Person</div></div>	<div><div>Address</div><div>3100 Monticello Ave., Suite 975 Dallas, TX 75205 USA</div></div>		

Order

Return to Search



City of Denton

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

Legislation Text

File #: ID 24-952, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Economic Development

ACM: Christine Taylor, Assistant City Manager

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. from the Downtown Reinvestment Grant Program for a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

BACKGROUND

Historical documents estimate that the 104-106 West Oak St. building was constructed in the year 1888. Photos show it was used as an undertaker on the main floor and a furniture and wallpaper retailer on the second until about 1925 when a fire broke out in the building on its east side. After the fire, it was leased by the JC Penney Company department store, which occupied the space until about 1965, when it was leased and finally purchased by the McNeill family, who operated a furniture and appliance business for 57 years, closing in the Autumn of 2022. Little D Property Group, LLC, then purchased the building in late 2023.

Demolition and asbestos remediation has taking place, making way for the new fire suppression system that will be installed in the basement, main floor, mezzanine, and second floor. Demo/remediation included the removal of loose plaster on the walls, all floor coverings to reveal the original wood floors, wall paneling on the first floor, including the cash wrap, lay-in ceiling grid, and tiles. On the second floor, acoustical ceiling tiles, the existing air conditioning system, lighting and power, and a small portion of the first-floor framing and flooring where a merchandise lift will be installed. Wherever possible, items will be saved and reused elsewhere during the restoration.

Exterior demolition included the much-anticipated removal of the concrete aggregate slipcover on the front of the building and the parapet to the storefront-covered canopy. The storefront is believed to be intact beneath the slipcover, however it will need some restoration work. The slipcover was attached via posts tied to the storefront brick structure. The thin layer of concrete slurry coating the brick will be difficult to remove. The 1925-era double-hung wood sash windows are still beneath the slipcover and must be restored. Installing awnings to reduce solar heat loading will be needed to maintain the original wavy single-pane glass upstairs and in the transom glass about the street-level canopy. On the West and rear-facing façade, the bricks will be repointed or replaced as needed by a mason who is experienced with historic buildings.

The new building owner is committed to historic preservation. All exterior and interior renovations are focused on meeting the Texas Historic Commission requirements for historical recognition of the building and to be approved as a contributing building to the Square's National Historic Registry.

Projected Improvements include: Fire Suppression System

Project Submitted Expenses: \$100,000

Grant Request: \$50,000

Applicable Policy Limits:

- *Fire Suppression Systems:* Installation of a new fire suppression system or necessary updates to an existing fire suppression system in accordance with the International Fire Code (IFC) and International Building Code Chapter 9, currently followed by the City of Denton. Grant Limits: Fire Suppression System grants are limited to a 50% match with a cap of \$ 50,000 per grant.

PRIOR ACTION/REVIEW

February 1, 2024 – Downtown Economic Development Committee (DEDC) reviewed and scored the application. The fire suppression application automatically receives the maximum points, making it eligible for a recommendation of up to \$50,000.

March 27, 2024 – Downtown Denton Tax Increment Reinvestment Zone Number One Board reviewed the application and voted to recommend City Council approve the Downtown Reinvestment Grant Program application in the amount not to exceed \$50,000, as recommended by TIRZ #1 for Little D Property Group, LLC for improvements located at 104-106 W. Oak St.

OPTIONS

1. Recommend approval of the grant as recommended by the TIRZ.
2. Do not recommend approval of grant application.

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Ordinance and Agreement

Exhibit 3 – Presentation

Exhibit 4 – HPO Review

Exhibit 5 – LLC Search

Respectfully submitted:

Kristen Pulido

Main Street Program Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON APPROVING A GRANT TO LITTLE D PROPERTY GROUP, LLC FOR IMPROVEMENTS LOCATED AT 104-106 W. OAK ST. FROM THE DOWNTOWN REINVESTMENT GRANT PROGRAM FOR A FIRE SUPPRESSION GRANT IN AN AMOUNT NOT TO EXCEED \$50,000 FROM TIRZ FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 3, 2007, the City Council approved the Downtown Reinvestment Grant Program (the “Program”) by Ordinance No. 2007-072; and

WHEREAS, on December 14, 2021, the City Council approved changes to the Program by Ordinance No. 21-2626; and

WHEREAS, Little d Property Group, LLC, owner of the property located at 104-106 W. Oak St. (the “Property”), applied for a \$50,000.00 fire suppression grant in accordance with the Program; and

WHEREAS, the Tax Increment Financing Reinvestment Zone Number One Board and the Downtown Economic Development Committee reviewed the application in accordance with the Program and recommend a fire suppression grant in an amount not to exceed \$50,000 from TIRZ funds; and

WHEREAS, it is in the public interest and benefits the Downtown TIRZ to award the Downtown Reinvestment Grant, thereby stimulating economic development and promoting desired redevelopment in the downtown area of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations in the preamble of this ordinance are found to be true and incorporated herein by reference as if fully set forth in the body of this ordinance.

SECTION 2. The City Council of the City of Denton hereby approves the Agreement attached hereto authorizing a fire suppression grant in an amount not to exceed \$50,000.00 from the Program.

SECTION 3. The City Manager, or their designee, is hereby authorized to execute the Agreement and to carry out the duties and responsibilities of the City, including the expenditure of funds as provided in the Agreement.

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 _____; 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray
Scott Bray, Deputy City Attorney

DOWNTOWN REINVESTMENT GRANT AGREEMENT

This Downtown Reinvestment Grant Agreement (the “Agreement”) is entered into by and between the City of Denton, Texas (the “City”), duly acting herein by and through its City Manager, and Little d Property Group, LLC, a Texas limited liability company with a principal place of business at 616 W. Oak St., Denton, TX 76201 (“Owner”).

WHEREAS, the City Council of Denton, Texas (the “City Council”) has, by Ordinance No. 2007-072, elected to offer downtown reinvestment grant incentives and has adopted guidelines and criteria governing downtown reinvestment grant incentive agreements known as the Downtown Reinvestment Grant Program Policy (the “Program”), a copy of which is on file in the City of Denton Economic Development Office and which is incorporated herein by reference; and

WHEREAS, the Program constitutes appropriate “guidelines and criteria” governing downtown reinvestment grant incentive agreements to be entered into by the City; and

WHEREAS, the Owner will be the owner or have a leasehold interest, as of the Effective Date (as hereinafter defined), of certain real property more particularly described in Exhibit “A” attached hereto and incorporated herein by reference and made a part of this Agreement for all purposes (the “Premises”); and

WHEREAS, on the 19th day of December, 2023, Owner submitted an application for a reinvestment grant with various attachments to the City concerning the contemplated use of the Premises (the “Application”), which is attached hereto and incorporated herein by reference as Exhibit “B”; and

WHEREAS, the City Council of the City of Denton finds that the contemplated use of the Premises, the Improvements (as hereinafter defined) to the Premises as set forth in this Agreement, and the other terms hereof are consistent with encouraging development in accordance with the purposes and are in compliance with the Program and similar guidelines and criteria adopted by the City and all applicable law;

NOW, THEREFORE, the City Manager and Owner for and in consideration of the premises and the promises contained herein do hereby contract, covenant, and agree as follows:

I.

TERMS AND CONDITIONS OF REIMBURSEMENT GRANT

A. In consideration of and subject to the Owner meeting all the terms and conditions of reimbursement set forth herein, the City will pay to the Owner the following reimbursement grant:

1. A reimbursement grant in an amount not to exceed \$50,000.00 (the “Grant”) attributable to new Improvements, as hereinafter defined, being constructed on the Premises.

2. The Grant will be distributed to Owner as a lump sum reimbursement upon completion of the Project, the receipt of adequate documentation of expenditure of the Grant amount on costs necessary and related to the Improvements as described in Exhibit “B” attached hereto, and approval of the completed Improvements by the City.

B. A condition of receiving the Grant is that, by December 19, 2024, Owner will complete the installation of a fire suppression system as described in Exhibit “B” (collectively, the “Improvements”) on the Premises.

C. A condition of the Reimbursement is that the Improvements be completed and used substantially in accordance with the description of the project set forth in Exhibit “B” and comply with the requirements of the Program.

D. Owner agrees to comply with all the terms and conditions set forth in this Agreement.

E. The parties expressly understand and agree that City’s payment of the Grant is contingent upon City’s receipt and appropriation of adequate funds to pay the Grant. If adequate funds are not available to make the payment under this Agreement, City may, at its option, either reduce the amount of the Grant or terminate the Agreement.

F. It is expressly understood that this Agreement in no way obligates the City to provide more funds than the Grant amount.

II. CONDITION OF REIMBURSEMENT

A. Prior to payment of any portion of the Grant, all ad valorem real property taxes with respect to the Premises and all other property in the City owned by the Owner shall be current.

B. Prior to the payment of any portion of the Grant, Owner shall have constructed the Improvements as specified in Exhibit “B.”

C. If alterations to the paint, sign renovations, utility upgrades, façade and building renovations, or interior/code improvements portion of the Improvements are made for any reason within one (1) year from final payment of the Grant without prior approval by City, Owner is required to reimburse the City in the full amount of the Grant.

D. Prior to the award of the Grant, Owner shall own or have a leasehold interest in the Premises.

III.
RECORDS AND EVALUATION OF PROJECT

A. The Owner shall provide access and authorize inspection of the Premises by City employees and allow sufficient inspection of financial information related to construction of the Improvements to ensure that the Improvements are made, and performance thresholds are met according to the specifications and conditions of this Agreement. Such inspections shall be done in a way that will not interfere with Owner's business operations.

IV.
GENERAL PROVISIONS

A. The City has adopted guidelines and criteria for the Program that allow it to enter into this Agreement containing the terms set forth herein.

B. The City has determined that procedures followed by the City to enter into this Agreement and the obligations of the parties to this Agreement conform to the requirements of the Code and the Program.

C. In the event of any conflict between the City zoning ordinances, or other City ordinances or regulations, and this Agreement, such ordinances or regulations shall control.

D. Owner represents and warrants that Owner is authorized to make the Improvements to the Premises.

V.
NOTICE

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designated in writing, by certified mail postage prepare, by hand delivery or via facsimile:

OWNER:

Peter Leptuch
Little D Property Group, LLC
616 W. Oak Street
Denton, TX 76201

CITY:

Sara Hensley, City Manager
City of Denton
215 East McKinney
Denton, Texas 76201
Fax No. 940.349.8596

VI.
CITY COUNCIL AUTHORIZATION

This Agreement was authorized by the City Council by passage of Ordinance No. _____ authorizing the City Manager to execute this Agreement on behalf of the City.

VII.
SEVERABILITY

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word. In the event that (i) the term of the Grant with respect to any property is longer than allowed by law, or (ii) the Grant applies to a broader classification of property than is allowed by law, then the Grant shall be valid with respect to the classification of property abated hereunder, and the portion of the term, that is allowed by law.

VIII.
OWNER STANDING

Owner, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and Owner shall be entitled to intervene in said litigation.

IX.
APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is fully performable in Denton County, Texas. Venue for any action under this Agreement shall be in Denton County, Texas.

X.
ENTIRE AGREEMENT

This instrument with the attached exhibits contains the entire agreement between the parties with respect to the transaction contemplated in this Agreement.

XI.
BINDING

This Agreement shall be binding on the parties and the respective successors, assigns, heirs, and legal representatives.

XII.
COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XIII.
SECTION AND OTHER HEADINGS

Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

XIV.
NO JOINT VENTURE

Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby disavowed.

XV.
AMENDMENT

This Agreement may be modified in writing by the parties hereto to include other provisions which could have originally been included in this Agreement or to delete provisions that were not originally necessary to this Agreement.

XVI.
FORCE MAJEURE

If, because of flood, fire, explosions, civil disturbances, strikes, war, acts of God, or other causes beyond the control of either Party, either Party is not able to perform any or all of its obligations under this Agreement, then the respective Party's obligations hereunder shall be suspended during such period but for no longer than such period of time when the party is unable to perform.

XVII.
INDEMNIFICATION

OWNER SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH DIRECTLY OR INDIRECTLY ARISES FROM CITY'S GRANT AND OWNER'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER AND ANY CONTESTS OR CHALLENGES TO THE LEGAL AUTHORITY OF THE CITY OR OWNER TO ENTER INTO THIS AGREEMENT AND ANY AND ALL LIABILITIES, LOSSES, COSTS OR EXPENSES (INCLUDING ATTORNEY'S FEES AND DISBURSEMENTS) THAT ANY INDEMNITEES SUFFER OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT OWNER SHALL HAVE NO OBLIGATION UNDER THIS PARAGRAPH TO THE CITY WITH RESPECT TO ANY OF THE FOREGOING ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR THE BREACH BY THE CITY OF THIS AGREEMENT.

This Agreement is executed to be effective on the executed date of the ____ day of _____, 2024, (the “Effective Date”) by duly authorized officials of the City and Owner.

CITY OF DENTON

SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray

Scott Bray, Deputy City Attorney

OWNER:
LITTLE D PROPERTY GROUP, LLC

DocuSigned by:
Peter Leptuch
6056B420386E423...

PETER LEPTUCH, MANAGER

EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Being Lot 5, Block 5, of ORIGINAL TOWN OF DENTON, an Addition to the City of Denton, Denton County, Texas, according to the Plat thereof recorded in Volume 4, Page 53, of the Plat Records of Denton County, Texas.

EXHIBIT B
APPLICATION AND IMPROVEMENTS

Rec'd 12/19/23
C. Davis

Downtown Reinvestment Grant Program Application

Please return completed the application with necessary attachments and signatures to the Economic Development Department office at 401 N. Elm St., Denton, Texas. If you have any application questions, please contact the Economic Development Department at 940-349-7776.

use
this

Applicant Name	Peter A. Leptuch P.C.	Date	12/17/23
Business Name	Little D Property Group, LLC		
Mailing Address	104-106 West Oak Street Denton, TX 76201		
Contact Phone	940 735-5127	Email Address	pleptuch@yahoo.com
Building Owner (if different from applicant)	Same		
Historical/Current Building Name	McNeill Building		
Project Site/Address	104-106 West Oak Street Denton, TX		

Type of Work: (check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Paint Only | <input type="checkbox"/> Awnings |
| <input type="checkbox"/> Signage | <input type="checkbox"/> Impact Fees |
| <input type="checkbox"/> Utility Upgrades | <input type="checkbox"/> Interior/Code Improvements |
| <input type="checkbox"/> Facade & Building Renovation | <input checked="" type="checkbox"/> Fire Suppression System |

Details of planned improvements relating to grant request (attach additional information if necessary).

The planned improvement is to install a new fire suppression (sprinkler) system. None is currently installed.

How will this project benefit Downtown?

This renovation will protect an unprotected portion of the square from fire.

Legal Description of the property:

Project Categories	Estimated Costs	Grant Requested
Facade/Building Rehab		
Awnings		
Signs		
Impact Fees		
Utility Upgrades		
Interior/Code Improvements		
Fire Suppression System	\$48K \$115K	\$50 K
Totals		

TOTAL COST OF PROPOSED PROJECT

\$ \$115K

TOTAL GRANT REQUEST

(May not exceed 50% of TOTAL COST up to \$50,000)

\$ \$50K

Attach all required color samples of paint, awning/canopy, sign design, etc., as well as photographs of building's exterior facade, roof and foundation.

[Signature]
Applicant's Signature

12/17/23
Date

DOWNTOWN REINVESTMENT GRANT AGREEMENT FORM

Please complete and return with the Downtown Reinvestment Grant Application to the Economic Development office, 401 N. Elm St., Denton, Texas. If you have any questions, please contact the Economic Development Department at 940- 349-7776.

I have met with a representative from the Economic Development Department, and I have read and fully understand the Downtown Reinvestment Grant procedures established by the Denton City Council. I intend to use this grant program for the aforementioned renovation projects to advance the efforts of revitalization and historic preservation of Denton's historic downtown. *I have not received, nor will I receive insurance monies for this revitalization project.*

I understand that if I am awarded a Downtown Reinvestment Grant by the City of Denton, any deviation from the approved project may result in the partial or total withdrawal of the grant. (If I am awarded a reinvestment grant for facade, awning or sign work and the facade, sign or awning is altered for any reason within **one (1) year** from construction, I may be required to reimburse the City of Denton immediately for the full amount of the grant.)

Business/Organization Name

Little D Property Group

Applicant's Signature

DocuSigned by:

0956B420386E423...

Printed Name

PETER LEPTUCH

Date

7/23/2024

Building Owner's Signature (if different from applicant)

Printed Name

Date

This section is to be completed by Economic Development staff.

Date considered by DEDC

Recommendation

Staff Signature

Date considered by TIRZ #1 Board

Recommendation

Staff Signature

Date considered by City Council

Approval

Staff Signature



GOLDEN TRIANGLE FIRE PROTECTION, INC.
5000 ENERGY PLACE, BUILDING 300A • DENTON, TX 76207
PHONE (940) 243-0929 • FAX (940) 380-4029
PROPOSAL

PROPOSAL SUBMITTED TO		DATE November 8, 2023
Contractor Peter Leptuch, P.E.	Attention Peter Leptuch	Job Name Old McNeil's Building
Mailing Address		Job Address 104-106 W Oak Street, Denton TX
Phone: 940-735-5127	Cell:	Email: pleptuch@yahoo.com

We are pleased to submit specifications and estimates for:

Fire Sprinkler: Installation of one wet fire sprinkler system throughout McNeils space. Includes fire sprinkler design and permit.

Fire Sprinkler Base Bid: \$63,246.08

Fire Alarm: Install one Fire Alarm System in McNeils space. All dedicated circuit electrical wiring is excluded and done by others. Single/multiple station smoke detectors and CO Detectors excluded and done by others. Includes fire alarm design and permit.

Fire Alarm Base Bid: \$34,130.59

Fire Alarm Monitoring: Fire Alarm Monitoring – Billed Annually – \$680 per panel.

Fire Alarm Monitoring Base Bid: \$680.00

Fire Line Underground: Labor and Material to install approximately 3' of fire sprinkler underground from property line to inside McNeils space.

Fire Line Underground Bid: \$15,475.01

All work to meet City of Denton Fire Marshall's Office and NFPA requirements. Underground excludes tap and waterline outside of property line. Excludes Duct Detectors and voice evacuation. Contractor to provide PDF's and CAD files for design.

EXCLUSIONS:

<input checked="" type="checkbox"/> Line voltage-wiring	<input type="checkbox"/> Fire Alarms	<input checked="" type="checkbox"/> Approval, other than City of Denton
<input checked="" type="checkbox"/> Off-site trash and spots removal	<input checked="" type="checkbox"/> Impact fees – water	<input checked="" type="checkbox"/> Bond Fees
<input checked="" type="checkbox"/> Painting of pipe	<input checked="" type="checkbox"/> Adequate water	<input type="checkbox"/> Underground
<input checked="" type="checkbox"/> Concrete work of any nature	<input checked="" type="checkbox"/> Premium time	<input type="checkbox"/> Fire Alarm Monitoring

All material is guaranteed to be specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado and other necessary insurances. Our workers are fully covered by Workmen's Compensation Insurance. It is agreed that in arriving at the above prices for labor and materials it is contemplated by the parties that the same will be paid to the order of GOLDEN TRIANGLE FIRE PROTECTION, INC. at its place of business in Denton, Texas, promptly as provided herein. In the event same is not paid, you agree to pay interest at the highest lawful rate on same amount from its due date. In the event the same is collected through suit or through an Attorney, the Probate Court or Bankruptcy Court, you agree to pay a reasonable attorney's fee thereon.

We hereby propose to furnish labor and materials complete in accordance with the above specifications, for the sum of: see breakout above with payment to be made as follows: 30 days from invoice date.

This proposal is predicated on the following conditions:

1. Ample water is available from city water supply to properly serve this sprinkler system without the use of additional pumps.
2. The structural and mechanical design of the building is addressed to the possibility of freeze damage to sprinklers, and sufficient heat is provided by other than Golden Triangle Fire Protection, Inc. to prevent such freeze damage.
3. That proper and continuing maintenance is provided by owner to insure against freeze damage. Golden Triangle Fire Protection, Inc. will not be responsible for damage to building or contents caused by freeze damage to sprinkler systems.

\$113,532

Performance Bond	<input type="checkbox"/> is	<input checked="" type="checkbox"/> not	included	Building Assumed to be Heated	by Owner	
Underground Supply	<input type="checkbox"/> is	<input checked="" type="checkbox"/> not	included	Pro-Rata Changes	<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> Not Applicable
Painting of Pipe	<input type="checkbox"/> is	<input checked="" type="checkbox"/> not	included	Spacing per Head	N/A	
City Connection	<input type="checkbox"/> is	<input checked="" type="checkbox"/> not	included	Type of System	<input type="checkbox"/> WET	Storage Height
Approving Authority	Denton County				<input type="checkbox"/> DRY	

Authorized Signature: Stephen M. Nack

Stephen M. Nack

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

If the above price and conditions meet with your approval, please execute below and return one copy to this office.

Accepted by: _____ Title: _____ Date: _____

Renovations for
104 West Oak Street
Denton, TX
(North side of Denton
Courthouse Square)
TIRZ presentation

Peter A. Leptuch, P.E.

February 1, 2024



Overview of Renovations

Part 1 - Fire Protection -
Fire Sprinkler & Alarm
Systems

Part 2 - Interior - Basement
and Street Level, 2nd Level

Part 3 - Exterior





Introduction

This presentation includes a summary of the proposed scope of work to renovate the former McNeill's Appliance store. The new owner is a City of Denton resident who restored a historic property on Oak Street about a decade ago and hosted the Christmas Historic Home Tour in 2016. The new owner will occupy the second floor of the former McNeill building as a (mostly) open office space and will lease out the ground floor to a mercantile/retail tenant once renovations are complete.



Fire Protection and Fire Alarm Systems



Though not required for the proposed use, the Owner has contracted with Golden Triangle Fire Protection to install fire sprinklers and fire alarm systems within the space. Design is in progress.

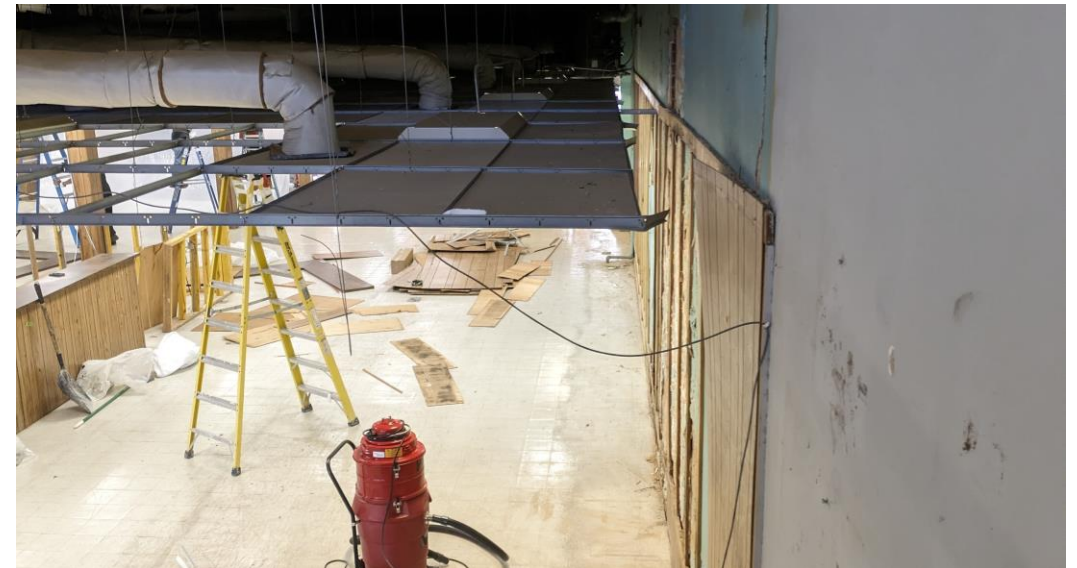


Demolition and Asbestos Remediation

The new owner is in the process of conducting interior asbestos remediation and demolition. Demo Permit was received on January 12th and interior asbestos remediation began on January 15th. The demo/remediation scope of this work includes the removal of loose plaster on walls, all floor coverings that are concealing original wood floors, wall paneling on the first floor, 1st floor cash wrap, lay-in ceiling grid, and tiles on 1st floor. A second demo phase will follow, including 2nd floor acoustical ceiling tiles, existing air conditioning systems, lighting and power, and a small portion of the first-floor framing and flooring where a merchandise lift will be installed. Those bathroom fixtures and doors/door trim will be saved and reused elsewhere during the restoration. The bones of the space will be retained.

Exterior demolition will be limited to removing the concrete aggregate slipcover and parapet to the storefront-covered canopy. This will be delayed until after all appropriate approvals are received.

ID 24-952; August 6, 2024



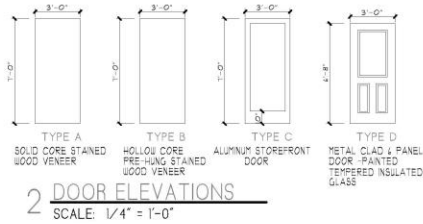
Interior Ground Floor Renovations



We are pleased to share that we have leased out the ground-level space to a long-time Denton business. They will announce their move on their own timetable. The following slide is our preliminary proposed layout for the ground-floor tenant - including the full first floor and part of the basement level.

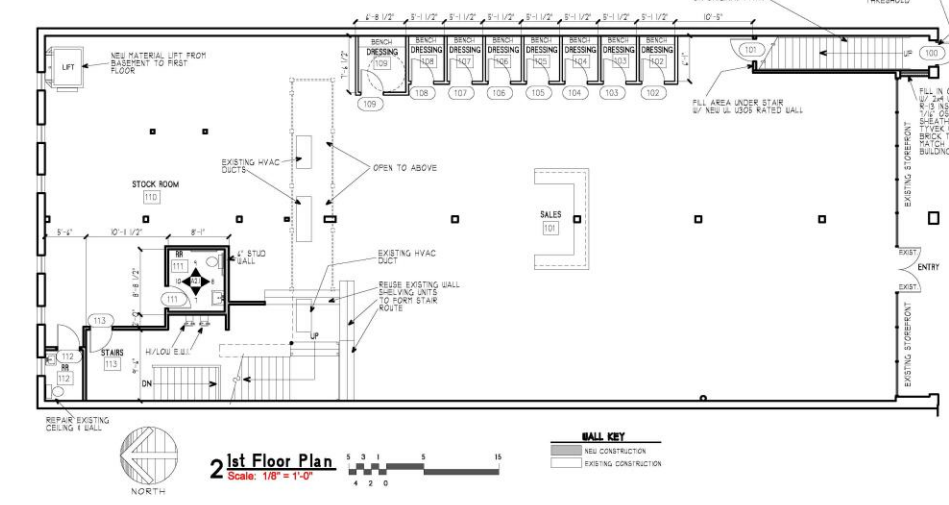
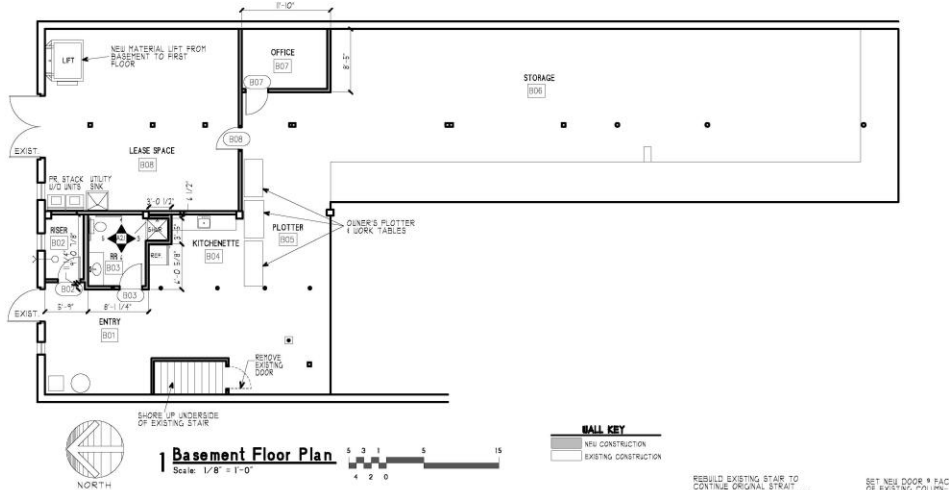
The scheduled turnover date is no later than May 31, 2024.





DOOR SCHEDULE						
NO.	DOOR	TYPE	MAT.	SIZE	FRAME	LABEL
B02	A	S.C.W.D.	3/8" T&B	1 3/4"	WOOD	LOCK APPROVED BY FIRE MARSHAL
B03	A	S.C.W.D.	3/8" T&B	1 3/4"	WOOD	PRIVACY LOCK
B07	A	S.C.W.D.	3/8" T&B	1 3/4"	WOOD	LOCKSET
B08	A	EXIST.	3/8" T&B	1 3/4"	WOOD	PROVIDE LOCKSET
100	D	METAL CLAD	3/8" 4"	1 3/4"	WOOD	PROVIDE LOCKSET
101	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	KEYED LOCK
102	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
103	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
104	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
105	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
106	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
108	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
109	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
111	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
112	B	H.C.W.D.	3/8" T&B	1 1/4"	WOOD	PRIVACY LOCK
113	A	S.C.W.D.	3/8" T&B	1 3/4"	WOOD	PASSAGE SET

ROOM SCHEDULE						
LOCATION	NO.	FLOORS	WALLS	BASE	CEILING	HT.
ENTRY	B01	CC	GYP. BD.	RUBBER	OPEN	EXISTING
RISER	B02	CC	GYP. BD.	RUBBER	OPEN	EXISTING
RESTROOM	B03	CC	TILE	TILE	GYP. BD.	EXISTING
KITCHENETTE	B04	CC	GYP. BD.	RUBBER	OPEN	EXISTING
PLOTTER	B05	CC	GYP. BD.	RUBBER	OPEN	EXISTING
STORAGE	B06	CC	EXIST. CONCRETE	RUBBER	OPEN	EXISTING
OFFICE	B07	CARPET	GYP. BD.	RUBBER	GYP. BD.	EXISTING
LEASE SPACE	B08	CC	GYP. BD.	RUBBER	GYP. BD.	EXISTING
SALES	101	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	102	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	103	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	104	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	105	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	106	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	107	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	108	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
DRESSING	109	WOOD	GYP. BD.	RUBBER	OPEN	EXISTING
STOCK ROOM	110	WOOD	GYP. BD.	RUBBER	METAL	EXISTING
RESTROOM	111	TILE	TILE	TILE	GYP. BD.	EXISTING
RESTROOM	112	TILE	TILE	TILE	GYP. BD.	EXISTING
STAIRS	113	WOOD	GYP. BD.	RUBBER	METAL	EXISTING



DATE: DECEMBER 22, 2023
TX #574 EXP. 12/31/2023

REVISD PLANS FOR
DENTON MEP
DENTON, TEXAS 76201
104 WEST OAK STREET

Mark M. Martin, Architect
Michael A. Bates, Architect
2220 San Jacinto Blvd., Ste. 330
Denton, Texas 76205
(940) 565-0260
(940) 387-4881

BMA
BATESMARTIN
ARCHITECTS

BMA PROJECT NO.
23-220

REV. _____
REV. _____
REV. _____
REV. _____
FLOOR PLANS

SHEET
A2.1
OF 5

Second Floor Engineering Office Renovations

The owner is a Design Engineer with a staff of approximately 25 employees, including several UNT Engineering graduates. His team will occupy the upstairs space, which has been vacant and/or used for storage for 60+ years. The following slide is their proposed layout.

Prior to his lease on Carroll Blvd, his team co-occupied the second floor of the Texas Building (adjacent building to the east) with Bates Martin Architects and GSATi.

The following slide shows the proposed second-floor layout.

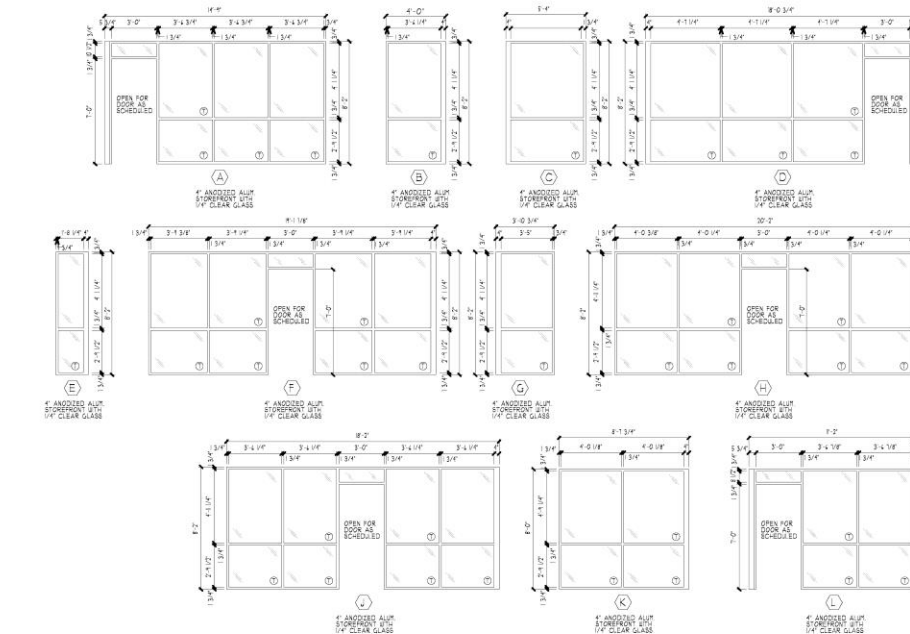


ROOM SCHEDULE									
LOCATION	NO.	FLOORS	WALLS	BASE	CEILING	HT.	REMARKS		
SECOND FLOOR	OFFICE	201	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	LOUNGE	202	WOOD	GYP. BD.	VNTL	WOOD	EXISTING	RUBBER BASE AT NEW WALLS	
	OFFICE	203	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	204	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	205	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	206	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OPEN OFFICE	207	WOOD	GYP. BD.	VNTL	WOOD	EXISTING	RUBBER BASE AT NEW WALLS	
	STAIR	208	WOOD	GYP. BD.	VNTL	GYP. BD.	EXISTING	RUBBER BASE AT NEW WALLS	
	PHONE	209	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	ADMINISTRATION	210	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	BREAK AREA	211	WOOD	GYP. BD.	VNTL	METAL	EXISTING	RUBBER BASE AT NEW WALLS	
	RESTROOM	212	TILE	TILE	VNTL	GYP. BD.	8'-0"	TILE TO 4'-0" AFF. PAINT ABOVE	
	RESTROOM	213	TILE	TILE	VNTL	GYP. BD.	8'-0"	TILE TO 4'-0" AFF. PAINT ABOVE	
	CONFERENCE	214	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	RESTROOM	215	TILE	TILE	VNTL	GYP. BD.	EXISTING	TILE TO 4'-0" AFF. PAINT ABOVE	
BALCONY	BALCONY	301	WOOD	EXISTING	EXISTING	METAL	EXISTING		
	STORAGE	302	WOOD	EXISTING	EXISTING	METAL	EXISTING		

DOOR SCHEDULE					
NO.	DOOR	DOOR SIZE	FRAME	LABEL	REMARKS
201	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
203	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
204	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
205	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
206	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
208	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	LOCK WITH PANIC BAR	
209	A H.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	PRE-HUNG WITH PRIVACY LOCK	
210	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
212	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	PRIVACY LOCK	
213	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	PRIVACY LOCK	
214	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	
215	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK	

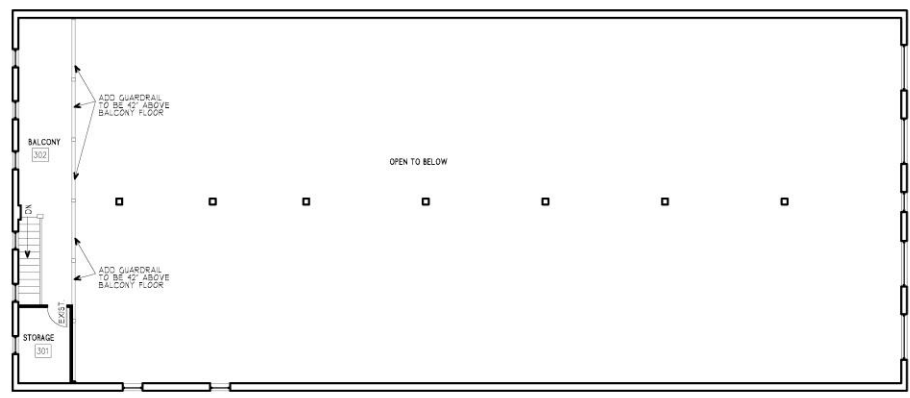
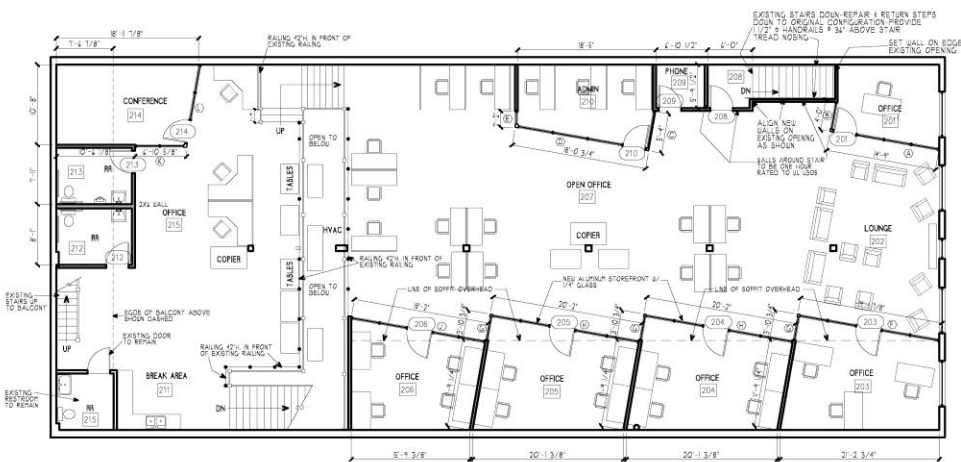
2 DOOR ELEVATIONS

SCALE: 1/4" = 1'-0"



STOREFRONT ELEVATIONS
SCALE: 1/4" = 1'-0"

WINDOW GENERAL NOTES:
1) ALL GLASS IN CONFERENCE ROOM 28 TO BE LOW E LAMINATED GLASS FOR SOUND
2) ALL INTERIOR GLASS TO BE 1/4" CLEAR TEMPERED GLASS



DATE: DECEMBER 22, 2023

REGISTERED ARCHITECT
STATE OF TEXAS

K.A.B./M.B.P. 12/3/2023

REVISED PLANS FOR

DENTON MEP

DENTON, TEXAS 76201

104 WEST OAK STREET

Mark M. Martin, Architect
Michael A. Bates, Architect
2220 San Jacinto Blvd., Ste 330
Denton, Texas 76205
(940) 565-0260
(940) 387-4881

B.M.
BATES MARTIN
ARCHITECTS

BMA
PROJECT NO.

23-220

REV _____
REV _____
REV _____
REV _____

FLOOR
PLANS

SHEET

A2.2

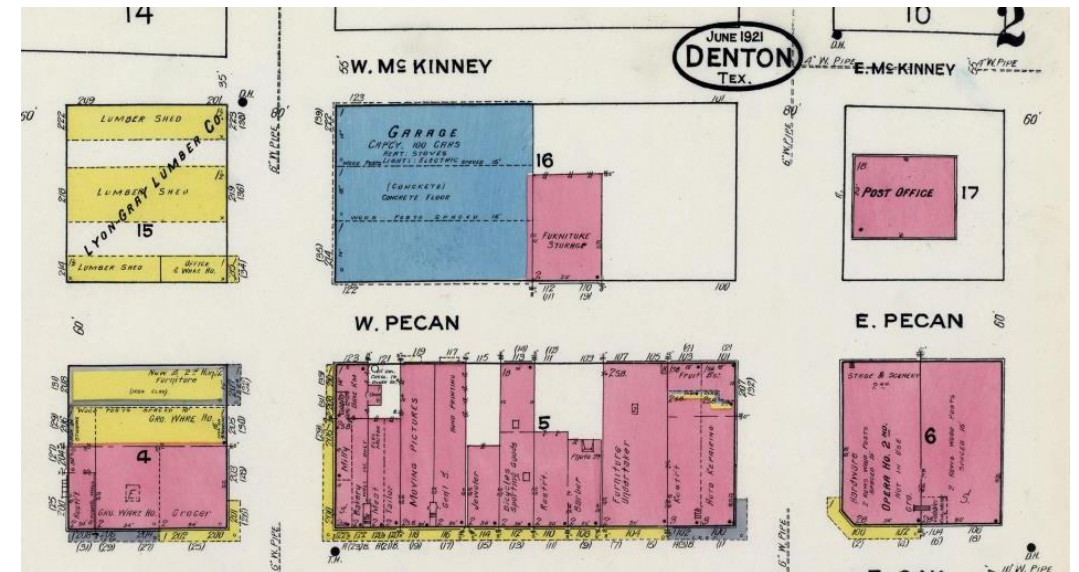
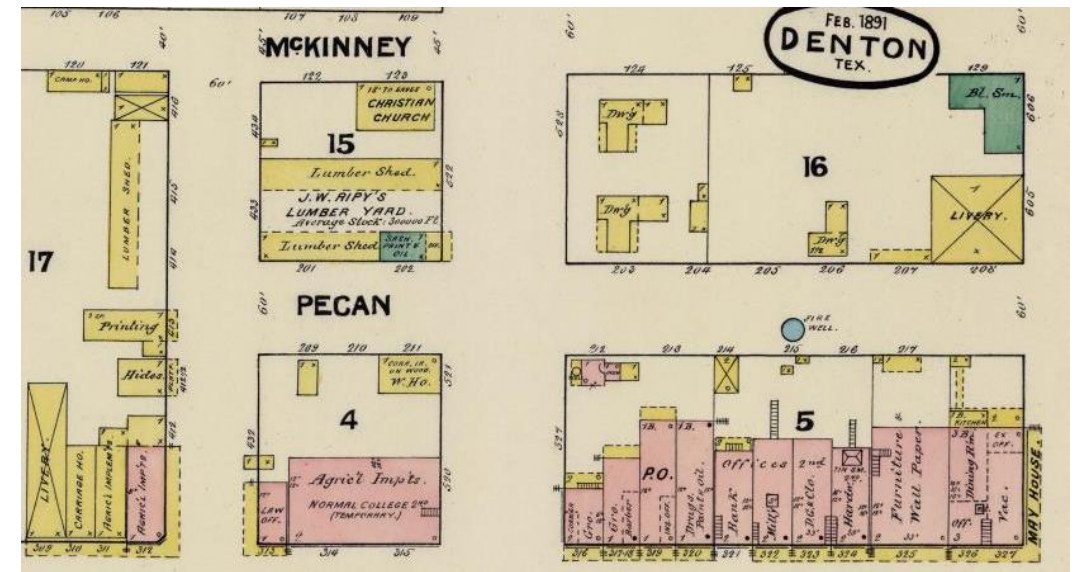
OF 5

Building History

Not much is known about the earliest years of this building at this time. But prior to the fire in the building to the east, this building was used for Furniture, Wallpaper, and an undertaker's business.

Subsequent to the fire, it was Leased by JC Penney Company for almost 40 years. After that, it was leased, then purchased by the McNeill's Furniture and Appliance businesses, which remained a fixture of the Denton community until the store closed in 2022.

We are working with Historic Denton, the Texas Historic Commission, and The National Park Service to get this property to become a contributing building in the Downtown Courthouse Square Historic District. Though the building dates back to 1888, the historic date of restoration work will be 1925, the age of the current storefront.



Storefront History

A series of photos will now be presented showing this property as it has evolved over time. The original storefront of this building is believed to have been constructed in brick in the late 1880s. To the top right is a photo from the late 1880s. The photo is attributed to being from 1889, but it is probably a couple of years earlier, based on information tracked down by Randy Hunt.

The photo on the lower right is likely from the 1910s or the early 20s. It shows an earlier storefront in this same building.

The interior wooden building structure is older than the current 1924/1925 storefront. The photo on the lower right shows an arched brick element crowing the top of the storefront parapet and seven storefront windows.

The building to the right (east) adjacent building burned in 1924 and was replaced with what is now called the "TEXAS BUILDING." Our building survived that fire but had its storefront replaced after the fire.



Storefront History

Continuing to move forward in time, the top right photo is from 1946 and shows the storefront as it existed during the JC Penney era.

The bottom right shows the building from 1956.

Inspection of the storefront's interior has identified a brick stamped with "1924." The brick was probably manufactured in 1924 and installed in 1925.



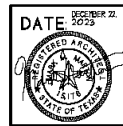
Storefront History

The top right photo is from 1976 and shows the storefront as it existed in the McNeill's era. This photo shows that the façade did not have the current concrete aggregate slipcover installed until sometime after the beginning of 1976.

The bottom right photo is a current photo.

The following slide shows the tentative renderings of what the building will look like after removing the slipcover. Both rows of upper windows exist, concealed beneath the façade slipcover.





TX 48174 EXP. 12/31/2025

REVISED PLANS FOR
DENTON MEP
104 WEST OAK STREET DENTON, TEXAS 76201

Mark M. Martin, Architect
Michael A. Bates, Architect
2220 San Jacinto Blvd, Ste. 330
Denton, Texas 76205
(840) 565-0280
(840) 387-4881

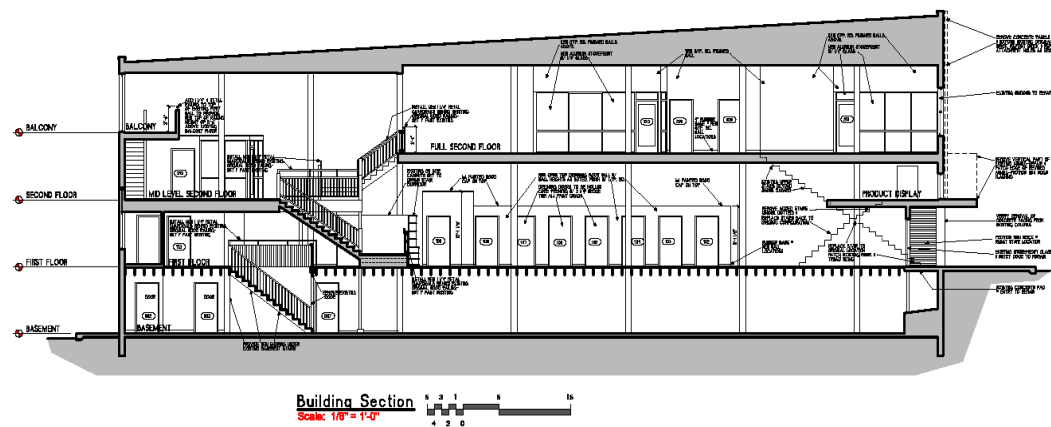
B.M.
BATESMARTIN
ARCHITECTS

BMA
PROJECT NO.
23-220

REV	
REV	
REV	
REV	

BLDG. ELEV'S.
AND SECTION

SHEET
A3.1
OF 23



Storefront Repairs

The storefront is believed to be intact in its entirety beneath the slipcover however it will need some restoration work. It should be noted that when the slipcover was applied, it was attached via posts tied into the storefront [brick] structure. It is expected that there is a thin layer of concrete slurry coating the brick from the application of the slipcover concrete aggregate. This will be challenging to remove. This is visible on the street side of the glass storefront windows. Additionally, there appear to be two small louvers or openings in the storefront, as visible in both the 1956 and 1976 photos. These may require patching as well. It is expected that bricks can be matched for this work.

The 1925-era double-hung wood sash windows are still present beneath the slipcover and will need to be restored. Providing and installing awnings to reduce solar heat loading on the upper level would be beneficial. The owner plans to maintain the original wavy single-pane glass upstairs and the transom glass above the street-level canopy.



West and Rear Facing Facade



The Owner has priced out work from a long-time brick mason ready to repoint and replace cracked bricks on the north and west-facing facades on the backside of the building. He has worked on many historic buildings and has already found matching bricks to do the work. He is just waiting on approval to start.



Historic Preservation



The owner's team has submitted preliminary information to the Texas Historic Commission to obtain pre-approval for historical recognition of the building. At this time, the concrete aggregate façade 'slipcover' is preventing this building from being a 'contributing building' to the Denton Courthouse Square Historic District.

We aim to resolve that.

As of January 4th, the preapproval is stalled out pending the removal of the storefront façade to confirm that there is enough of the 1925 storefront remaining to make it a contributing building to the Courthouse Square Historic District. As soon as we are approved to demo the slipcover, the process to unlock state and federal tax credits (funding) will move forward.

Special thanks to Mark Martin and Randy Hunt for their efforts in the design and historical research.

JC Penney & Co

The owner's team has pieced together some interesting finds of the building during the JC Penney Period.

The Photo above is a branding stamp under the stairs that lead between the basement level and the 1st floor level.

Below is an excerpt of text detailing the JC Penney initial lease/work letter from 1925. This document contains some of the finish specifications of the store and references original storefront blueprints previously attached to the landlord's work letter.



1925—J. C. Penney Building

- 7/11/1925 – Lease of building to JC Penney Co
- Mrs. Emory C. Smith granted lease to JC Penney for 10 years for \$300 monthly

No. 52681.

Lease.

THIS INDENTURE OF LEASE, made and entered into this 11th day of July A.D. 1925, by and between Mrs. Emory C. Smith, a feme sole, hereinafter called the lessor party of the first PARTIES part, and J.C. Penney Company, a Corporation existing under the laws of the State of Delaware, hereinafter called the lessee, party of the second part,

WITNESSETH: That the lessor for and in consideration of the covenants, conditions, agreements and stipulations of the lessee hereinafter expressed, does hereby demise and lease unto the lessee The First Story or ground floor and basement of her certain brick store building located on Lot 5, Block 5, of the Original Plat of the City of Denton, PREMISES Texas, being Nos. 104-106, North side of Public Square, in the City of Denton, in Denton County, Texas, less however and reserving from the operation of this lease, a space

four and one half feet wide East and West by 29 feet North and South at the Southeast corner of said building for the construction of a stairway from the sidewalk to the second story of said building.

JC Penney Co.

JC Penney & Co work letter, 1925, continued.

A future project could be to track down those documents and reconstruct an original storefront.

The best place to start to track down original blueprints would be in the JC Penney Papers, housed at the SMU Degolyer Library. The contact person may be Joan Gosnell at this library, based on her efforts to track down information on the Bonham, TX, JCP store.

MEMORANDUM SPECIFICATIONS. ALTERATIONS TO BUILDING AT DENTON, TEXAS, FOR OCCUPANCY OF J.C. PENNEY COMPANY.

1. Construct new plate glass front in accordance with attached blue print and detailed specifications to be furnished by J.C. Penney Company, Stairway to second floor not over four and one-half feet wide and having a run of not over twenty-five feet may be taken out of east side of front if desired by lessor, The two iron posts in existing front are to be removed and replaced with a single iron post in the center of front properly boxed with mirrors. Sheet prism in wood sash to be used in transom, above awning.
2. Existing floor in storeroom is to be repaired wherever necessary in a manner acceptable to lessee.
3. Construct balcony across entire rear end of storeroom 15 feet wide of 2"x6" joists, supported by not more than one post, (Rods from second floor joists may be used if desired) floored with 2 1/4" face pine flooring, Balcony to have open balustrade rail and stairway with rail leading from the ground floor, stairway to be not less than 2' 6" wide with solid risings. Under side of balcony to have a clearance of seven feet 1 1/2".
4. Cover entire ceiling and underside of balcony with metal ceiling, not lighter than 29 gauge, of design approved by lessee, all beams to be covered with coved cornice.
5. Provide four rows of 200 watt lighting outlets down the entire length of storeroom ceiling spaced 12 feet apart, The outside rows to be 6' from wall and the inner rows spaced approximately 12' from the outer rows. Also provide 12 ceiling fan outlets as directed. Also three gas lamp outlets down center of storeroom. Provide outside key switch for show window lights, Fans. storeroom lighting and window lighting all to be on separate circuits. Pipe storeroom for gas stoves.
6. Put elevator in first class running order and repair and either restrict its operation to the basement and first floor or enclose it on the second floor ^{so} that it cannot be entered from the second floor except through doors which have secure locks on them and the keys to such locks shall be delivered to and retained by lessee during the term of their lease.
7. Provided two toilet enclosures with outside ventilation (opening to be not less than 18x24 inches with double hung sash or pivot) each with water closet and lavatory.

JC Penney Co.



JC Penney & Co work letter, 1925, continued.

8. All panelwork (show window backing and ceiling) inside shows windows to be given two coats of enamel undercoating and one coat of equal parts enamel and enamel undercoating, color light French Grey.

Oak floor in show windows to be filled and varnished three coats best grade floor varnish.

Storeroom walls to be thoroughly cleaned, repaired, pointed up, sized where necessary and given two coats as specified above for panel work color light Tan.

Metal ceiling to be given three coats as specified above for panelwork, color Ivory White.

All interior woodwork and trim to be painted as specified above for panelwork.

9. Existing sky-lights between first and second floor may be either kept open or closed at option of lessee. Lessor agrees to pay the expense of closing this opening if notified within three weeks from the signing of this lease otherwise or if lessee elects to have glass sky-light installed cost of same is to be born by lessee.

9½ Tile for bulkhead around show windows and for vestibule to be ordered by lessee for account of lessor. Lessor agrees to pay invoice promptly upon receipt material. Any delay in completion of improvements occasioned by delay in delivery of tile shall not be charged to lessor. In case the cost of floor tile and bulkhead tile together with reasonable cost of laying time exceeds 75¢ and \$1.25 per sq foot respectively, lessee agrees to pay difference and such cost shall include transportation charges.

10. All brickwork on entire front of building to be painted two coats color to be selected by lessee. Lessee shall be permitted to erect board sign under the second story windows, also such window signs as they may desire. All signs put up by other tenants in the building shall be restricted to stairway leading from the sidewalk to the second floor and to the second floor windows. Lessee shall be permitted if they so desire to erect electrical signs at the height of second story windows.

11. Canopy over sidewalk is to be repaired in a manner satisfactory to lessee and painted as directed by lessee, this refers to existing wooden canopy or awning attached to front of building.

12. Existing stairway from ground floor up to storeroom to second floor is to be removed and the opening in second floor closed and covered with metal ceiling.

13. Lessor to provide all hardware required subject to the approval of the lessee. Windows in the rear of building at alley elevation to be barred.

14. All work to be carried out in compliance with all municipal, county and State regulations. These specifications are intended to cover work complete in every detail.

FILED FOR RECORD: Aug. 7, 1925 at 10 o'clock A.M.

RECORDED: Aug. 12, 1925 at 9:40 o'clock A.M.

Jack Christal, County Clerk,

General Condition of the Space

Yes! There is an upstairs to this building!

This space is a bit of a time capsule. In 1925, when JC Penney Co leased this space, the building owner at that time elected to lease only the 1st floor to JC Penney. The upper level was retained for the owner's use. During the last 12 years of the JC Penney tenancy, their lease had expanded to the full building. It appears that a portion of the upper level was used for retail for that period of time.

In the 1960s, when the McNeill family leased and later purchased the building, the far upstairs level was used for storage, and the mid-upstairs level space was used for administrative / office work.



General Condition of the Space

During the 1960s remodel, the new owners 'buried' the original plaster walls with laminate paneling. They 'buried' the tin ceiling with a new acoustical lay-in grid ceiling, about 6' lower than the previous ceiling. And they buried the original wood flooring with asbestos-containing 9x9 floor tile. These items concealed 1885 to 1925 finishes that we will be revealing/ restoring with this renovation.

Many of the elements described in the 1925 JC Penney & Co. work letter are present in the interior of the building at this time, including tin ceiling tiles, skylights (openings to the upper level), and a display platform elevated above the general sales floor and wood floors. Portions of the space are still painted tan and ivory, as described in the work letter.





Summary

The intent of this presentation has been to provide a glimpse of the intended finished product of this building as well as a brief history of this building.

The new owner intends to use this building as a showpiece of what is possible in the historic preservation of 100+-year-old buildings. This building has nearly all of its amazing interior and exterior finishes that have survived the past 100 years.

The owner wants to keep these intact to the maximum extent possible for the next generations of Denton to enjoy. The owner will apply a conscientious design team and high-quality tradespersons to give a new shine to a hidden gem of a building on the downtown Denton square.

The owner intends to leave the modern single pane ground-level storefront glazing as-is for the time being but may, in the future, restore that as well to a 1925 finish if that design can be identified.



Thank you!

Peter A. Leptuch, P.E.

Little d Property Group

DentonMEP.com



June 17, 2024

Peter A Leptuch, Little D Property Group, LLC
616 W Oak Street
Denton, TX 76201

RE: 104-106 W Oak Street – Front (South) Façade Exterior Alterations

Dear Mr. Leptuch:

Pursuant to Sections 4.10.7C and 4.10.7D of the Denton Development Code,

Façade Standards

- *Existing unpainted brick and stone facades must not be painted.*
- *The ground floor of buildings must include a minimum of three (3) elements of architectural relief at least every twenty-five (25) linear feet. These elements must comply with other applicable Design Standards, and may include, but are not limited to, the following:*
 - *Doors*
 - *Change in depth*
 - *Columns or posts*
 - *Windows*
 - *Awnings*
 - *Changes in materials*
 - *Other elements of architectural relief may be approved by the Director if they are determined to meet the Overall Purpose and Intent of the District.*

Fenestration, Glazing, and Entry Standards

- *Ground floor windows must use clear glass (80% minimum Visible Light Transmittance). All window glass must allow a minimum 60% Visible Light Transmittance and must not exceed 15% Visible Light Reflectance when measured at a perpendicular angle. The use of Low Emissivity (Low-E) glass is permitted.*
- *Primary building entrances must be clearly articulated, preferably with a covered-projected type of entry. Options, which must meet all applicable Design Standards, include:*
 - *Awnings*
 - *Canopies*
 - *Recessed entry*
 - *Other similar treatments may be approved by the Director if they are determined to meet with the Overall Purpose and Intent of the District.*

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

- *Awnings, canopies, and other covered-projected types of building features are permitted to encroach partially into the public right-of-way, but do require completion and approval of a City of Denton Right-of-Way Use permit/application.*
- *Awning, canopies, and other covered-projected types of building features must comply with the following:*
 - *Must be placed so as to provide weather protection for pedestrians.*
 - *Must be consistent in height with similar covered-projected features on adjacent or joining buildings.*
 - *Must be mounted in locations that do not obscure ornamental features over storefronts, such as rooflines, arches, and banding.*
 - *Must not exceed the width of the sidewalk*
 - *Must not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the City of Denton property maintenance code shall apply.*
 - *Must not have a dome or convex frame.*
 - *Colors of awnings, canopies, and other covered-projected types of building features must enhance and complement the building to which they are attached, rather than overwhelm the building scheme. Colors must not call more attention to the projected-covered building feature than the building.*
 - *The frame structure of such building features must be finished to match the metal storefront system color or the fabric color of the associated projected-covered type of building feature.*
 - *Such building features are not prohibited from encroaching partially into the public right-of-way, provided that a City of Denton Right-of-Way Use permit/application has been completed and approved.*

Per staff's review of the material provided, and per Sections 4.10.7C and 4.10.7D above, a Certificate of Design Consistency (DCC) is approved for the alteration of the front (south) façade at 104-106 W Oak Street. The scope of work is further described in Exhibit A.

Please note that any work that deviates from the work proposed above and within the exhibits will require a new DCC. Additionally, if the applicant has received funding through the Downtown Reinvestment Grant Program, any work deviations should be discussed with staff prior to permitting to keep the applicant in substantial conformance with the program.

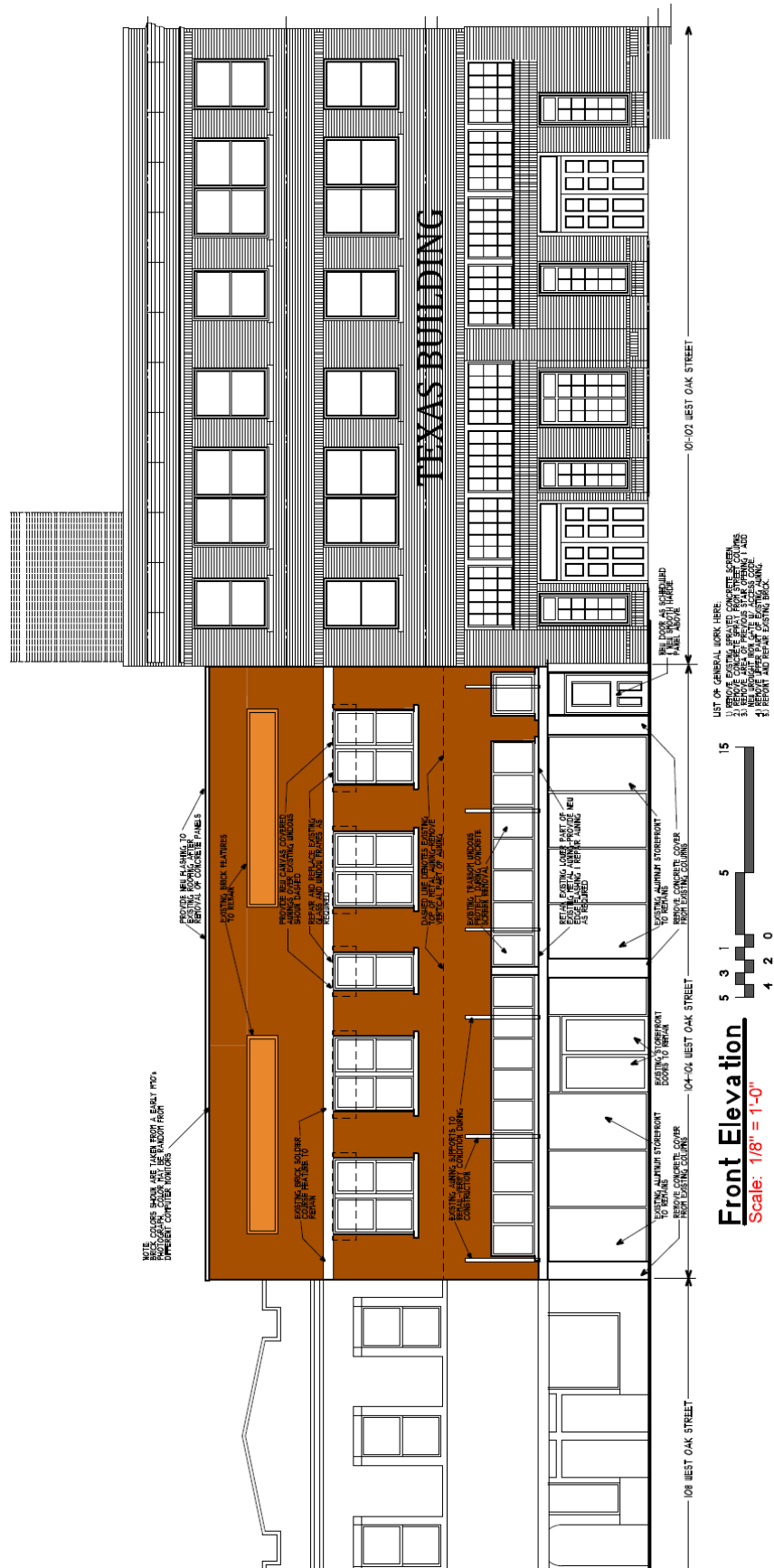
Please use this approval letter as a record of staff's review. If you have any questions or require additional information, please contact me at (940) 349-8532 or via email at cameron.robertson@cityofdenton.com.

Sincerely,



Cameron Robertson, AICP
Historic Preservation Officer

Exhibit A





LLC Search, Little D Property Group, LLC



Texas Secretary of State
Jane Nelson

UCC

Business Organizations

Trademarks

Notary

Account

Help/Fees

Briefcase

Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

Original Date of Filing:

Formation Date:

Tax ID:

Duration:

Name:

Address:

805286646

October 31, 2023

N/A

32092306649

Perpetual

Little d Property Group, LLC

616 W OAK ST
DENTON, TX 76201-9043 USA

Entity Type:

Entity Status:

FEIN:

Domestic Limited Liability Company (LLC)

In existence

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	
Last Update October 31, 2023	Name Peter Leptuch		Title Manager	



City of Denton

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

Legislation Text

File #: ID 24-1496, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. From the Downtown Reinvestment Grant Program for a Utility upgrade, Façade and Building renovation, Awning, and Interior and Code Improvements rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Economic Development

ACM: Christine Taylor, Assistant City Manager

DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton approving a grant to Little D Property Group, LLC for improvements located at 104-106 W. Oak St. From the Downtown Reinvestment Grant Program for a Utility upgrade, Façade and Building renovation, Awning, and Interior and Code Improvements rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and providing for an effective date.

BACKGROUND

Historical documents estimate that the 104-106 West Oak St. building was constructed in the year 1888. Photos show it was used as an undertaker on the main floor and a furniture and wallpaper retailer on the second until about 1925 when a fire broke out in the building on its east side. After the fire, it was leased by the JC Penney Company department store, which occupied the space until about 1965, when it was leased and finally purchased by the McNeill family, who operated a furniture and appliance business for 57 years, closing in the Autumn of 2022. Little D Property Group, LLC, then purchased the building in late 2023.

Demolition and asbestos remediation have taking place, making way for the new fire suppression system that will be installed in the basement, main floor, mezzanine, and second floor. Demo/remediation included the removal of loose plaster on the walls, all floor coverings to reveal the original wood floors, wall paneling on the first floor, including the cash wrap, lay-in ceiling grid, and tiles. On the second floor, acoustical ceiling tiles, the existing air conditioning system, lighting and power, and a small portion of the first-floor framing and flooring where a merchandise lift will be installed. Wherever possible, items will be saved and reused elsewhere during the restoration.

Exterior demolition included the much-anticipated removal of the concrete aggregate slipcover on the front of the building and the parapet to the storefront-covered canopy. The storefront is believed to be intact beneath the slipcover, however it will need some restoration work. The slipcover was attached via posts tied to the storefront brick structure. The thin layer of concrete slurry coating the brick will be difficult to remove. The 1925-era double-hung wood sash windows are still beneath the slipcover and must be restored. Installing awnings to reduce solar heat loading will be needed to maintain the original wavy single-pane glass upstairs and in the transom glass about the street-level canopy. On the West and rear-facing façade, the bricks will be repointed or replaced as needed by a mason who is experienced with historic buildings.

The new building owner is committed to historic preservation. All exterior and interior renovations are focused on meeting the Texas Historic Commission requirements for historical recognition of the building and to be approved as a contributing building to the Square's National Historic Registry.

Projected Improvements includes: Façade/Building Rehab, Awnings, Utility Upgrades, Interior/Code Improvements

Project Submitted Expenses: \$1,078,269

Grant Request: \$50,000

Applicable Policy Limits:

- *Façade/Building Rehab:* Grants are limited to a 50% match of the eligible project's costs, with a cap of \$50,000 per grant for facade, roof and foundation work. Roof and foundation repair may constitute no more than half of the request and shall only be considered for funding if included as a portion of a larger project. Paint-only grants are limited to a 50% match with a cap of \$7,500 per grant.
- *Utility Upgrades:* Grants are limited to a 50% match with a cap of \$50,000 per grant.
- *Interior/Code Improvements:* Grants are limited to a 50% match with a cap of \$50,000 per grant.

PRIOR ACTION/REVIEW

February 1, 2024 – Downtown Economic Development Committee (DEDC) reviewed and scored the application. The building rehabilitation application received an average score of 35 points, making it eligible for a recommendation of up to \$50,000. These score supports the recommendations to approve the application as requested. The grant application request and DEDC recommendation are for \$50,000.

March 27, 2024 – Downtown Denton Tax Increment Reinvestment Zone Number One Board reviewed the application and voted to recommend City Council approve the Downtown Reinvestment Grant Program application in the amount not to exceed \$50,000, as recommended by the DEDC for Little D Property Group, LLC for improvements located at 104-106 W. Oak St.

OPTIONS

1. Recommend approval of the grant as recommended by the TIRZ #1 Board.
2. Recommend a different amount than recommended by the TIRZ #1 Board.
3. Do not recommend approval of the grant.

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Ordinance and Agreement
Exhibit 3 – Presentation
Exhibit 4 – HPO Review
Exhibit 4 – LLC Search

Respectfully submitted:
Kristen Pulido
Main Street Program Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON APPROVING A GRANT TO LITTLE D PROPERTY GROUP, LLC FOR IMPROVEMENTS LOCATED AT 104-106 W. OAK ST. FROM THE DOWNTOWN REINVESTMENT GRANT PROGRAM FOR A UTILITY UPGRADE, FAÇADE AND BUILDING RENOVATION, AWNING, AND INTERIOR AND CODE IMPROVEMENTS REHABILITATION GRANT IN AN AMOUNT NOT TO EXCEED \$50,000 FROM TIRZ FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 3, 2007, the City Council approved the Downtown Reinvestment Grant Program (the “Program”) by Ordinance No. 2007-072; and

WHEREAS, on December 14, 2021, the City Council approved changes to the Program by Ordinance No. 21-2626; and

WHEREAS, Little d Property Group, LLC, owner of the property located at 104-106 W. Oak St. (the “Property”), applied for a \$50,000.00 rehabilitation grant in accordance with the Program; and

WHEREAS, the Tax Increment Financing Reinvestment Zone Number One Board and the Downtown Economic Development Committee reviewed the application in accordance with the Program and recommend a rehabilitation grant in an amount not to exceed \$50,000 from TIRZ funds; and

WHEREAS, it is in the public interest and benefits the Downtown TIRZ to award the Downtown Reinvestment Grant, thereby stimulating economic development and promoting desired redevelopment in the downtown area of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations in the preamble of this ordinance are found to be true and incorporated herein by reference as if fully set forth in the body of this ordinance.

SECTION 2. The City Council of the City of Denton hereby approves the Agreement attached hereto authorizing a rehabilitation grant in an amount not to exceed \$50,000.00 from the Program.

SECTION 3. The City Manager, or their designee, is hereby authorized to execute the Agreement and to carry out the duties and responsibilities of the City, including the expenditure of funds as provided in the Agreement.

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 _____; 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray
Scott Bray, Deputy City Attorney

DOWNTOWN REINVESTMENT GRANT AGREEMENT

This Downtown Reinvestment Grant Agreement (the “Agreement”) is entered into by and between the City of Denton, Texas (the “City”), duly acting herein by and through its City Manager, and Little d Property Group, LLC, a Texas limited liability company with a principal place of business at 616 W. Oak St., Denton, TX 76201 (“Owner”).

WHEREAS, the City Council of Denton, Texas (the “City Council”) has, by Ordinance No. 2007-072, elected to offer downtown reinvestment grant incentives and has adopted guidelines and criteria governing downtown reinvestment grant incentive agreements known as the Downtown Reinvestment Grant Program Policy (the “Program”), a copy of which is on file in the City of Denton Economic Development Office and which is incorporated herein by reference; and

WHEREAS, the Program constitutes appropriate “guidelines and criteria” governing downtown reinvestment grant incentive agreements to be entered into by the City;

WHEREAS, the Owner will be the owner or have a leasehold interest, as of the Effective Date (as hereinafter defined), of certain real property more particularly described in Exhibit “A” attached hereto and incorporated herein by reference and made a part of this Agreement for all purposes (the “Premises”); and

WHEREAS, on the 19th day of December, 2023, Owner submitted an application for a reinvestment grant with various attachments to the City concerning the contemplated use of the Premises (the “Application”), which is attached hereto and incorporated herein by reference as Exhibit “B”; and

WHEREAS, the City Council of the City of Denton finds that the contemplated use of the Premises, the Improvements (as hereinafter defined) to the Premises as set forth in this Agreement, and the other terms hereof are consistent with encouraging development in accordance with the purposes and are in compliance with the Program and similar guidelines and criteria adopted by the City and all applicable law;

NOW, THEREFORE, the City Manager and Owner for and in consideration of the premises and the promises contained herein do hereby contract, covenant, and agree as follows:

I.

TERMS AND CONDITIONS OF REIMBURSEMENT GRANT

A. In consideration of and subject to the Owner meeting all the terms and conditions of reimbursement set forth herein, the City will pay to the Owner the following reimbursement grant:

1. A reimbursement grant in an amount not to exceed \$50,000.00 (the “Grant”) attributable to new Improvements, as hereinafter defined, being constructed on the Premises.

2. The Grant will be distributed to Owner as a lump sum reimbursement upon completion of the Project, the receipt of adequate documentation of expenditure of the Grant amount on costs necessary and related to the Improvements as described in Exhibit "B" attached hereto, and approval of the completed Improvements by the City.

B. A condition of receiving the Grant is that, by December 19, 2024, Owner will install utility upgrades, façade and building renovations, new awnings, and make interior and code improvements as described in Exhibit "B" (collectively, the "Improvements") on the Premises.

C. A condition of the Reimbursement is that the Improvements be completed and used substantially in accordance with the description of the project set forth in Exhibit "B" and comply with the requirements of the Program.

D. Owner agrees to comply with all the terms and conditions set forth in this Agreement.

E. The parties expressly understand and agree that City's payment of the Grant is contingent upon City's receipt and appropriation of adequate funds to pay the Grant. If adequate funds are not available to make the payment under this Agreement, City may, at its option, either reduce the amount of the Grant or terminate the Agreement.

F. It is expressly understood that this Agreement in no way obligates the City to provide more funds than the Grant amount.

II.

CONDITION OF REIMBURSEMENT

A. Prior to payment of any portion of the Grant, all ad valorem real property taxes with respect to the Premises and all other property in the City owned by the Owner shall be current.

B. Prior to the payment of any portion of the Grant, Owner shall have constructed the Improvements as specified in Exhibit "B."

C. If alterations to the any of the Improvements are made for any reason within one (1) year from final payment of the Grant without prior authorization from the City, Owner is required to reimburse the City in the full amount of the Grant.

D. Prior to the award of the Grant, Owner shall own or have a leasehold interest in the Premises.

III.
RECORDS AND EVALUATION OF PROJECT

A. The Owner shall provide access and authorize inspection of the Premises by City employees and allow sufficient inspection of financial information related to construction of the Improvements to ensure that the Improvements are made, and performance thresholds are met according to the specifications and conditions of this Agreement. Such inspections shall be done in a way that will not interfere with Owner's business operations.

IV.
GENERAL PROVISIONS

A. The City has adopted guidelines and criteria for the Program that allow it to enter into this Agreement containing the terms set forth herein.

B. The City has determined that procedures followed by the City to enter into this Agreement and the obligations of the parties to this Agreement conform to the requirements of the Code and the Program.

C. In the event of any conflict between the City zoning ordinances, or other City ordinances or regulations, and this Agreement, such ordinances or regulations shall control.

D. Owner represents and warrants that Owner is authorized to make the Improvements to the Premises.

V.
NOTICE

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designated in writing, by certified mail postage prepare, by hand delivery or via facsimile:

OWNER:

Peter Leptuch
Little D Property Group, LLC
616 W. Oak Street
Denton, TX 76201

CITY:

Sara Hensley, City Manager
City of Denton
215 East McKinney
Denton, Texas 76201
Fax No. 940.349.8596

VI.
CITY COUNCIL AUTHORIZATION

This Agreement was authorized by the City Council by passage of Ordinance No. _____ authorizing the City Manager to execute this Agreement on behalf of the City.

VII.
SEVERABILITY

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word. In the event that (i) the term of the Grant with respect to any property is longer than allowed by law, or (ii) the Grant applies to a broader classification of property than is allowed by law, then the Grant shall be valid with respect to the classification of property abated hereunder, and the portion of the term, that is allowed by law.

VIII.
OWNER STANDING

Owner, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same and Owner shall be entitled to intervene in said litigation.

IX.
APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is fully performable in Denton County, Texas. Venue for any action under this Agreement shall be in Denton County, Texas.

X.
ENTIRE AGREEMENT

This instrument with the attached exhibits contains the entire agreement between the parties with respect to the transaction contemplated in this Agreement.

XI.
BINDING

This Agreement shall be binding on the parties and the respective successors, assigns, heirs, and legal representatives.

XII.
COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XIII.
SECTION AND OTHER HEADINGS

Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

XIV.
NO JOINT VENTURE

Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby disavowed.

XV.
AMENDMENT

This Agreement may be modified in writing by the parties hereto to include other provisions which could have originally been included in this Agreement or to delete provisions that were not originally necessary to this Agreement.

XVI.
FORCE MAJEURE

If, because of flood, fire, explosions, civil disturbances, strikes, war, acts of God, or other causes beyond the control of either Party, either Party is not able to perform any or all of its obligations under this Agreement, then the respective Party's obligations hereunder shall be suspended during such period but for no longer than such period of time when the party is unable to perform.

XVII.
INDEMNIFICATION

OWNER SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE CITY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, ATTORNEYS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION WHICH DIRECTLY OR INDIRECTLY ARISES FROM CITY'S GRANT AND OWNER'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER AND ANY CONTESTS OR CHALLENGES TO THE LEGAL AUTHORITY OF THE CITY OR OWNER TO ENTER INTO THIS AGREEMENT AND ANY AND ALL LIABILITIES, LOSSES, COSTS OR EXPENSES (INCLUDING ATTORNEY'S FEES AND DISBURSEMENTS) THAT ANY INDEMNITEES SUFFER OR INCURS AS A RESULT OF ANY OF THE FOREGOING; PROVIDED, HOWEVER, THAT OWNER SHALL HAVE NO OBLIGATION UNDER THIS PARAGRAPH TO THE CITY WITH RESPECT TO ANY OF THE FOREGOING ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY OR THE BREACH BY THE CITY OF THIS AGREEMENT.

This Agreement is executed to be effective on the executed date of the ____ day of _____, 2024, (the “Effective Date”) by duly authorized officials of the City and Owner.

CITY OF DENTON

SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Scott Bray
Scott Bray, Deputy City Attorney

OWNER:
LITTLE D PROPERTY GROUP, LLC

DocuSigned by:
Peter Leptuch
0950B420380E423...
PETER LEPTUCH, MANAGER

EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Being Lot 5, Block 5, of ORIGINAL TOWN OF DENTON, an Addition to the City of Denton, Denton County, Texas, according to the Plat thereof recorded in Volume 4, Page 53, of the Plat Records of Denton County, Texas.

EXHIBIT B
APPLICATION AND IMPROVEMENTS

Downtown Reinvestment Grant Program Application

Please return completed the application with necessary attachments and signatures to the Economic Development Department office at 401 N. Elm St., Denton, Texas. If you have any application questions, please contact the Economic Development Department at 940-349-7776.

Applicant Name	Peter A. Leptuch, P.E.	Date	12/19/23
Business Name	Little D Property Group, LLC		
Mailing Address	616 West Oak Street Denton 76201		
Contact Phone	940 735-5127	Email Address	pleptuch@yahoo.com
Building Owner (if different from applicant)			
Historical/Current Building Name	McNeill Building		
Project Site/Address	104-106 West Oak Street Denton 76201		

Type of Work: (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Paint Only | <input checked="" type="checkbox"/> Awnings |
| <input type="checkbox"/> Signage | <input type="checkbox"/> Impact Fees |
| <input checked="" type="checkbox"/> Utility Upgrades | <input checked="" type="checkbox"/> Interior/Code Improvements |
| <input checked="" type="checkbox"/> Facade & Building Renovation | <input type="checkbox"/> Fire Suppression System |

Details of planned improvements relating to grant request (attach additional information if necessary).

The Planned improvements include upgrades to plumbing, mechanics and electrical systems. Additionally, the buildings exterior is to be restored to become a contributing building to the Denton Courthouse Square Historic District. The exterior rear will be repainted/repared with a close-matching brick by a qualified brickmason. The front facade will be removed. The windows will be kept (restored). The upstairs windows will be provided with awnings, where approved by appropriate parties.

DOWNTOWN REINVESTMENT GRANT AGREEMENT FORM

Please complete and return with the Downtown Reinvestment Grant Application to the Economic Development office, 401 N. Elm St., Denton, Texas. If you have any questions, please contact the Economic Development Department at 940- 349-7776.

I have met with a representative from the Economic Development Department, and I have read and fully understand the Downtown Reinvestment Grant procedures established by the Denton City Council. I intend to use this grant program for the aforementioned renovation projects to advance the efforts of revitalization and historic preservation of Denton's historic downtown. *I have not received, nor will I receive insurance monies for this revitalization project.*

I understand that if I am awarded a Downtown Reinvestment Grant by the City of Denton, any deviation from the approved project may result in the partial or total withdrawal of the grant. (If I am awarded a reinvestment grant for facade, awning or sign work and the facade, sign or awning is altered for any reason within one (1) year from construction, I may be required to reimburse the City of Denton immediately for the full amount of the grant.)

Little D Property Group, LLC.

Business Organization Name



Applicant's Signature

Peter A. Leptuch, P.E. 12/19/23

Printed Name

Date

Same

Building Owner's Signature (if different from applicant) Printed Name Date

This section is to be completed by Economic Development staff.

Date considered by DEDC

Recommendation

Staff Signature

Date considered by TIRZ #1 Board

Recommendation

Staff Signature

Date considered by City Council

Approval

Staff Signature

How will this project benefit Downtown?

The 2nd floor of this building was previously used as sales floor for JC Penney Co-op from 1925-1964, but has sat vacant since then. This remodel will convert the upper level to an office space for a Denton-based business. The building's new owner is in talks to leasing downstairs to a long-time Denton business (retail/mercantile). All planned work is to be high quality.

Legal Description of the property:

Project Categories	Estimated Costs	Grant Requested
Facade/Building Rehab	\$108,200	\$50,000
Awnings	\$14,500	
Signs	\$15,000	
Impact Fees	\$0	
Utility Upgrades	\$220,000	
Interior/Code Improvements	\$436,000	
Fire Suppression System	(separate)	(separate)
Totals	\$863,000	\$50,000

TOTAL COST OF PROPOSED PROJECT

Tax & Cost Overruns * 1.25%

TOTAL GRANT REQUEST

(May not exceed 50% of TOTAL COST up to \$50,000)

\$ 1078,269 *

\$ 50,000

Attach all required color samples of paint, awning/canopy, sign design, etc., as well as photographs of building's exterior facade, roof and foundation.

* These numbers are preliminary. Bids will be available from the G.C. in January sometime.

Applicant's Signature

Date

McNeill Building Renovation		Bids & Budget	12/8/2023
		already paid from cashflow.	price (preferred bid) scheduled
Preliminary Meeting with City (estimated permit fees)		\$0	\$0
pick up keys 11/16			
space is vacated by previous tenant 12/02			
TV package - 4 TVs delivered on 12/2. 3 installed on 12/2, one left boxed for upstairs		\$3,200	
Façade / Building Repair			
Demo Permit - City of Denton webiste			\$471
Rear Repointing / Brick Repair (actual bid)			\$27,300
Front Demo of Concrete Slipcover - asbestos (demo phase 3)			\$18,000
New openings for toilet room exhaust lovers, dryer vents and plumbing vents			\$3,000
demo phase 1 - asbestos, plaster & millwork (bid rec'd)			\$15,850
brickwork - interior - clean up edges of stucco - guess			\$3,000
demo phase 2 - asbestos, 1st floor tile - guess was \$16K. Bid Received.			\$17,500
Storefront Repointing / Brick Repair (estimate based on back of building brick work.			\$20,000
Historic Denton - Tax Incentive Application Preparation			\$3,000
Awnings - estimate for storefront			\$108,121
Signs - estimate for future tenant			\$14,500
Impact fees - assuming no increases in meter sizes, tbd			\$15,000
Utility Upgrades (including M, E and P systems)			\$0
update security system - phase 1			\$4,500
Architectural design (bid rec'd)			\$16,850
MEP Engineering bid (including lighting design)			\$18,000
Structural Engineering (minor)			\$4,000
update security system - phase 1			\$4,500
MEP Permit Fee - City of Denton webiste			\$3,024
Building Permit Fee - City of Denton webiste			\$20,670

Bid for HVAC Equipment \$88K for gas, \$98K for heat pumps (bid rec'd 12/7).

HVAC installation

Tenant vertical life

IT package - server, routers, wifi, etc.

IT package - setup \$125/hr. estimated 100 hours per contractor

CAT 6 drops, \$125 each, 70 drops, per contractor

Interior & Code Improvements

The portion below by General Contractor

interior painting - walls and tin ceiling - guess

1st and second floor - MEP & partition walls, glass, etc. - guess

1st and second floors - refinish wood floors. - \$4 psf - oak st house was \$3 psf

clean-up and prep for move-in - 1st floor

clean-up and prep for move-in - 2nd floor

window restoration - new glass (reproduction wavy) - estimate based on OSH

window - re-rope, remove overspray, get operable, patch and repair - guess

Estimate for new gas piping to RTUs

Lighting Package - new fixtures

Electrical Systems - guess / budget #

Plumbing Systems - guess / budget # (4 new restrooms, kitchenette)

ADA / Egress / Panic Hardware

Kitchen - guess / budget #

tile work - restrooms - guess / budget #

Tenant vertical life

Change Orders

GC profit and overhead

Misc Owner Expenses

Furniture Package

Moving Expense

Termination of lease

sprinkler system (bid rec'd)

underground fire sprinkler system (bid rec'd)

fire alarm system - probably not needed (bid rec'd)

	\$88,000
	\$45,000
	\$15,000
	\$4,000
	\$12,500
	\$8,750

\$244,794

	\$28,000
	\$70,000
	\$46,000
	\$2,000
	\$1,000
	\$1,200
	\$4,000
	\$4,000
	\$80,000
	\$60,000
	\$45,000
	\$10,000
	\$12,000
	\$28,000
	\$15,000
	\$30,000
	\$43,620

\$436,200

	\$20,000
	\$4,000
	\$20,000

\$44,000

	\$63,246
	\$15,475
	\$34,131

Estimaterd Subtotal	\$876,735	\$862,615
Remodel Tax (labor) estimated		\$43,131
Cost Overruns	\$172,523	\$172,523
Total		\$1,078,269

Certificate Of Completion

Envelope Id: 8921F1B83E444F38BA463AF0FDBB7E4A

Status: Completed

Subject: Signature Needed

Source Envelope:

Document Pages: 27

Signatures: 3

Certificate Pages: 5

Initials: 0

AutoNav: Enabled

Envelope Stamping: Enabled

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

Envelope Originator:

Vanessa Esparza

901B Texas Street

Denton, TX 76209

vanessa.esparza@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

7/17/2024 2:29:38 PM

Holder: Vanessa Esparza

vanessa.esparza@cityofdenton.com

Location: DocuSign

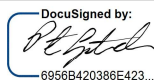
Signer Events

PETER LEPTUCH

pleptuch@yahoo.com

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:



6956B420386E423...

Signature Adoption: Drawn on Device

Using IP Address: 174.197.67.216

Signed using mobile

Timestamp

Sent: 7/17/2024 2:48:58 PM

Resent: 7/18/2024 6:50:40 AM

Resent: 7/19/2024 7:54:23 AM

Resent: 7/22/2024 9:32:57 AM

Viewed: 7/23/2024 9:11:15 AM

Signed: 7/23/2024 9:22:16 AM

Electronic Record and Signature Disclosure:

Accepted: 7/23/2024 9:11:15 AM

ID: 80b1ba1f-238f-404b-95da-a60c9a4898ae

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**

Kristen Pulido

Kristen.Pulido@cityofdenton.com

Security Level: Email, Account Authentication
(None)

COPIED

Sent: 7/23/2024 9:22:18 AM

Viewed: 7/23/2024 11:12:10 AM

Electronic Record and Signature Disclosure:

Accepted: 6/24/2024 12:13:23 PM

ID: ed7f8d84-5823-4a23-b6dc-54fe003a2078

Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent

Hashed/Encrypted

7/17/2024 2:48:58 PM

Certified Delivered

Security Checked

7/23/2024 9:11:15 AM

Signing Complete

Security Checked

7/23/2024 9:22:16 AM

Completed

Security Checked

7/23/2024 9:22:18 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.

Renovations for
104 West Oak Street
Denton, TX
(North side of Denton
Courthouse Square)
TIRZ presentation

Peter A. Leptuch, P.E.

February 1, 2024



Overview of Renovations

Part 1 - Fire Protection -
Fire Sprinkler & Alarm
Systems

Part 2 - Interior - Basement
and Street Level, 2nd Level

Part 3 - Exterior





Introduction

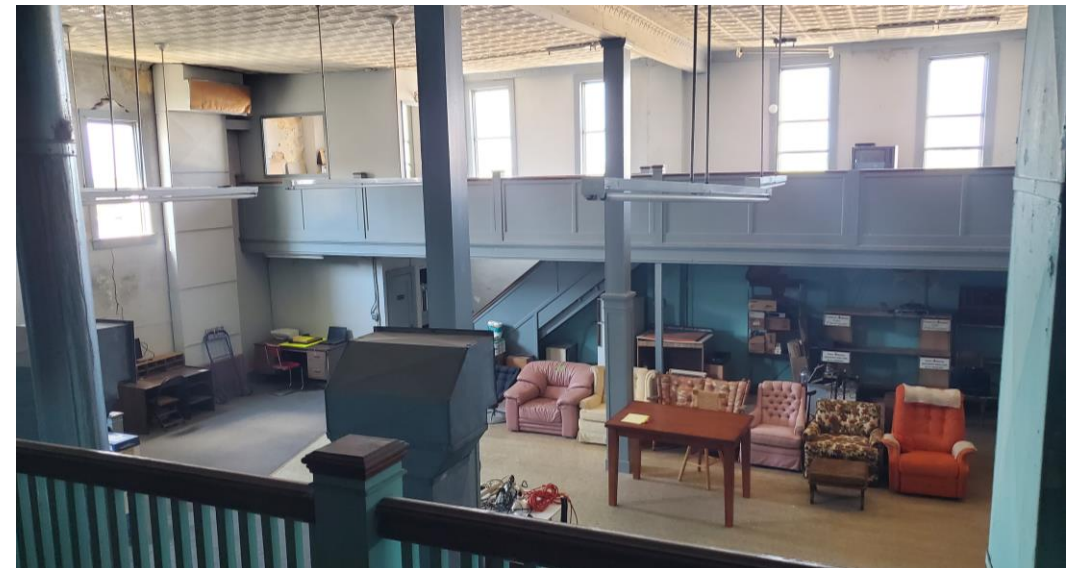
This presentation includes a summary of the proposed scope of work to renovate the former McNeill's Appliance store. The new owner is a City of Denton resident who restored a historic property on Oak Street about a decade ago and hosted the Christmas Historic Home Tour in 2016. The new owner will occupy the second floor of the former McNeill building as a (mostly) open office space and will lease out the ground floor to a mercantile/retail tenant once renovations are complete.



Fire Protection and Fire Alarm Systems



Though not required for the proposed use, the Owner has contracted with Golden Triangle Fire Protection to install fire sprinklers and fire alarm systems within the space. Design is in progress.

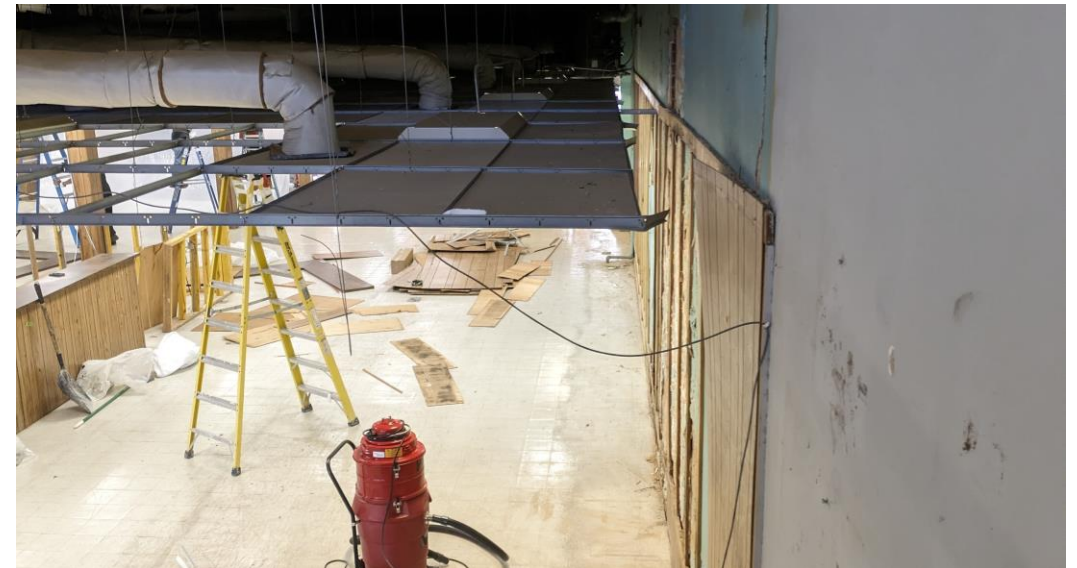


Demolition and Asbestos Remediation

The new owner is in the process of conducting interior asbestos remediation and demolition. Demo Permit was received on January 12th and interior asbestos remediation began on January 15th. The demo/remediation scope of this work includes the removal of loose plaster on walls, all floor coverings that are concealing original wood floors, wall paneling on the first floor, 1st floor cash wrap, lay-in ceiling grid, and tiles on 1st floor. A second demo phase will follow, including 2nd floor acoustical ceiling tiles, existing air conditioning systems, lighting and power, and a small portion of the first-floor framing and flooring where a merchandise lift will be installed. Those bathroom fixtures and doors/door trim will be saved and reused elsewhere during the restoration. The bones of the space will be retained.

Exterior demolition will be limited to removing the concrete aggregate slipcover and parapet to the storefront-covered canopy. This will be delayed until after all appropriate approvals are received.

ID 24-1496; August 6, 2024



Interior Ground Floor Renovations



We are pleased to share that we have leased out the ground-level space to a long-time Denton business. They will announce their move on their own timetable. The following slide is our preliminary proposed layout for the ground-floor tenant - including the full first floor and part of the basement level.

The scheduled turnover date is no later than May 31, 2024.



Second Floor Engineering Office Renovations

The owner is a Design Engineer with a staff of approximately 25 employees, including several UNT Engineering graduates. His team will occupy the upstairs space, which has been vacant and/or used for storage for 60+ years. The following slide is their proposed layout.

Prior to his lease on Carroll Blvd, his team co-occupied the second floor of the Texas Building (adjacent building to the east) with Bates Martin Architects and GSATi.

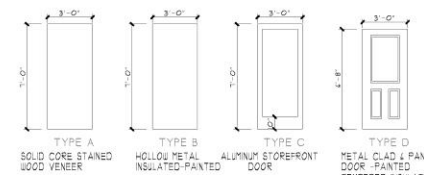
The following slide shows the proposed second-floor layout.



STOREFRONT ELEVATIONS

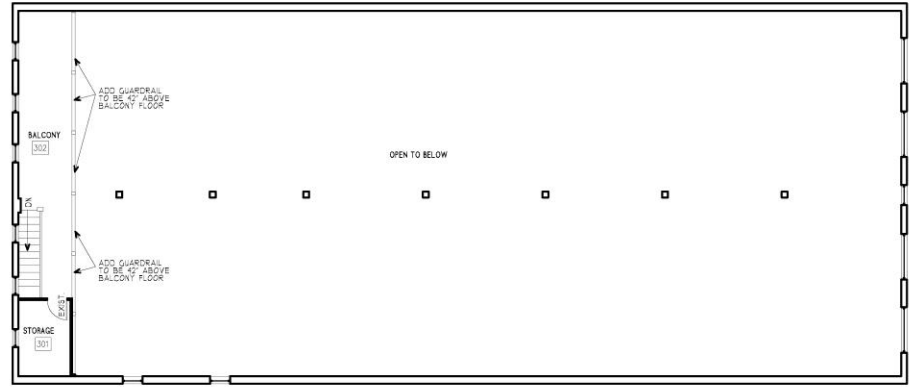
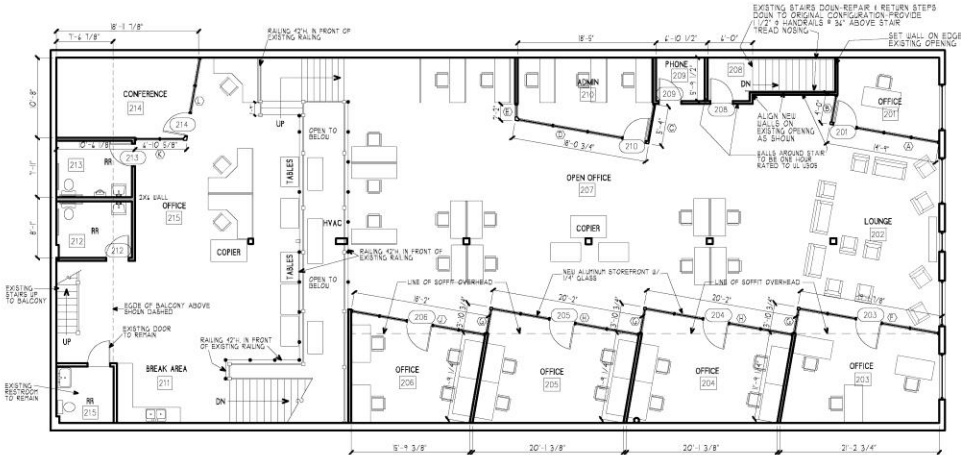
SCALE: 1/4" = 1'-0"
WINDOW GENERAL NOTES:
1) ALL GLASS IN CONFERENCE ROOM 28 TO BE LOW E LAMINATED GLASS FOR SOUND
2) ALL INTERIOR GLASS TO BE 1/4" CLEAR TEMPERED GLASS

2 DOOR ELEVATIONS
SCALE: 1/4" = 1'-0"



ROOM SCHEDULE									
LOCATION	NO.	FLOORS	WALLS	BASE	CEILING	HT.	REMARKS		
SECOND FLOOR	OFFICE	201	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	LOUNGE	202	WOOD	GYP. BD.	VNTL	WOOD	EXISTING	RUBBER BASE AT NEW WALLS	
	OFFICE	203	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	204	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	205	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OFFICE	206	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	OPEN OFFICE	207	WOOD	GYP. BD.	VNTL	WOOD	EXISTING	RUBBER BASE AT NEW WALLS	
	STAIR	208	WOOD	GYP. BD.	VNTL	GYP. BD.	EXISTING	RUBBER BASE AT NEW WALLS	
	PHONE	209	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	ADMINISTRATION	210	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	BREAK AREA	211	WOOD	GYP. BD.	VNTL	METAL	EXISTING	RUBBER BASE AT NEW WALLS	
	RESTROOM	212	TILE	TILE	VNTL	GYP. BD.	8'-0"	TILE TO 4'-0" AFF. PAINT ABOVE	
	RESTROOM	213	TILE	TILE	VNTL	GYP. BD.	8'-0"	TILE TO 4'-0" AFF. PAINT ABOVE	
	CONFERENCE	214	WOOD	GYP. BD.	VNTL	GYP. BD.	8'-0"	RUBBER BASE AT NEW WALLS	
	RESTROOM	215	TILE	TILE	VNTL	GYP. BD.	EXISTING	TILE TO 4'-0" AFF. PAINT ABOVE	
BALCONY	BALCONY	301	WOOD	EXISTING	EXISTING	METAL	EXISTING		
	STORAGE	302	WOOD	EXISTING	EXISTING	METAL	EXISTING		

DOOR SCHEDULE						
NO.	DOOR	DOOR SIZE	FRAME	LABEL	REMARKS	
201	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
203	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
204	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
205	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
206	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
208	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	LOCK WITH PANIC BAR		
209	A H.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	PRE-HUNG WITH PRIVACY LOCK		
210	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		
212	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	LOCK		
213	A S.C.W.D.	3'0" W x 7'0" H	3/4" WOOD	LOCK		
214	C ALUM.	3'0" W x 7'0" H	3/4" ALUM.	LOCK		



DATE: DECEMBER 22, 2023
K.M.B./M.E.P. 12/23/2023

REVISED PLANS FOR
DENTON MEP
104 WEST OAK STREET
DENTON, TEXAS 76201

Mark M. Martin, Architect
Michael A. Bates, Architect
2220 San Jacinto Blvd., Ste 330
Denton, Texas 76205
(940) 565-0260
(940) 387-4881
B.M. BATESMARTIN ARCHITECTS

BMA PROJECT NO.
23-220
REV _____
REV _____
REV _____
REV _____
FLOOR PLANS

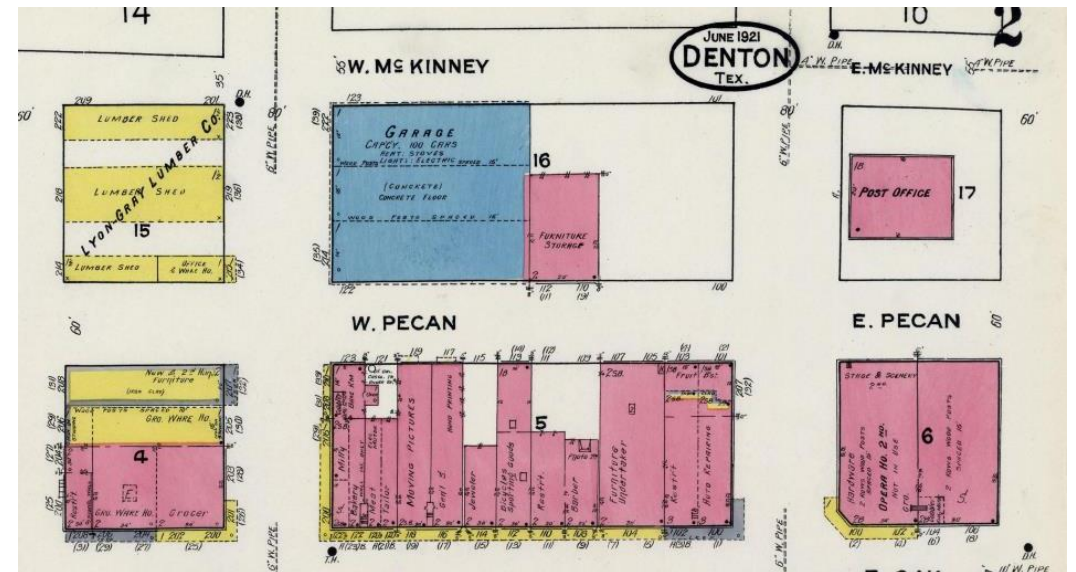
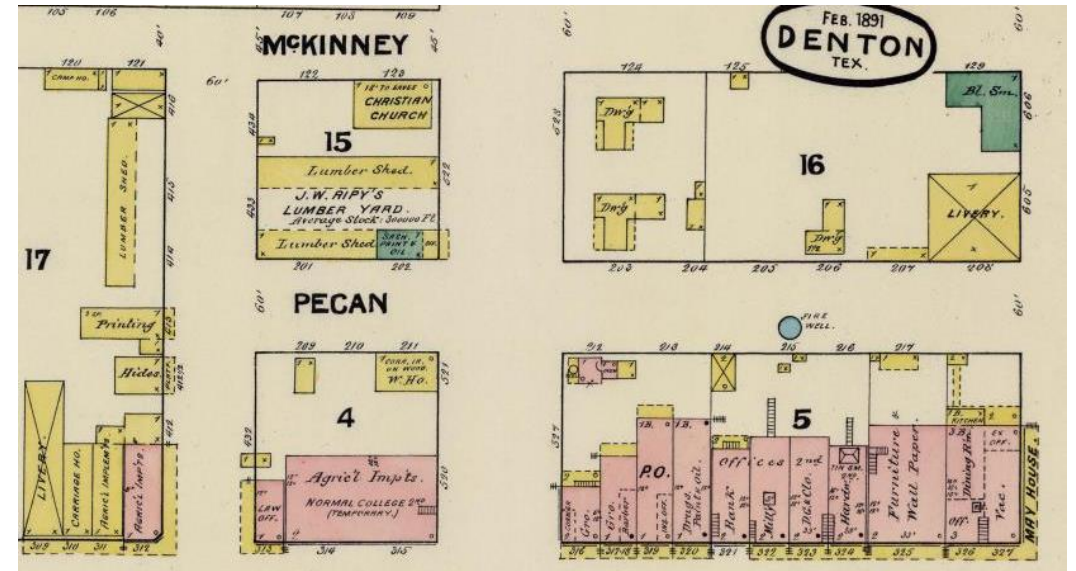
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A2.2
OF 5

Building History

Not much is known about the earliest years of this building at this time. But prior to the fire in the building to the east, this building was used for Furniture, Wallpaper, and an undertaker's business.

Subsequent to the fire, it was Leased by JC Penney Company for almost 40 years. After that, it was leased, then purchased by the McNeill's Furniture and Appliance businesses, which remained a fixture of the Denton community until the store closed in 2022.

We are working with Historic Denton, the Texas Historic Commission, and The National Park Service to get this property to become a contributing building in the Downtown Courthouse Square Historic District. Though the building dates back to 1888, the historic date of restoration work will be 1925, the age of the current storefront.



Storefront History

A series of photos will now be presented showing this property as it has evolved over time. The original storefront of this building is believed to have been constructed in brick in the late 1880s. To the top right is a photo from the late 1880s. The photo is attributed to being from 1889, but it is probably a couple of years earlier, based on information tracked down by Randy Hunt.

The photo on the lower right is likely from the 1910s or the early 20s. It shows an earlier storefront in this same building.

The interior wooden building structure is older than the current 1924/1925 storefront. The photo on the lower right shows an arched brick element crowing the top of the storefront parapet and seven storefront windows.

The building to the right (east) adjacent building burned in 1924 and was replaced with what is now called the "TEXAS BUILDING." Our building survived that fire but had its storefront replaced after the fire.



Storefront History

Continuing to move forward in time, the top right photo is from 1946 and shows the storefront as it existed during the JC Penney era.

The bottom right shows the building from 1956.

Inspection of the storefront's interior has identified a brick stamped with "1924." The brick was probably manufactured in 1924 and installed in 1925.



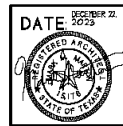
Storefront History

The top right photo is from 1976 and shows the storefront as it existed in the McNeill's era. This photo shows that the façade did not have the current concrete aggregate slipcover installed until sometime after the beginning of 1976.

The bottom right photo is a current photo.

The following slide shows the tentative renderings of what the building will look like after removing the slipcover. Both rows of upper windows exist, concealed beneath the façade slipcover.





TX 48174 EXP. 12/31/2025

REVISED PLANS FOR
DENTON MEP
104 WEST OAK STREET DENTON, TEXAS 76201

Mark M. Martin, Architect
Michael A. Bates, Architect
2220 San Jacinto Blvd, Ste. 330
Denton, Texas 76205
(840) 565-0280
(840) 387-4881

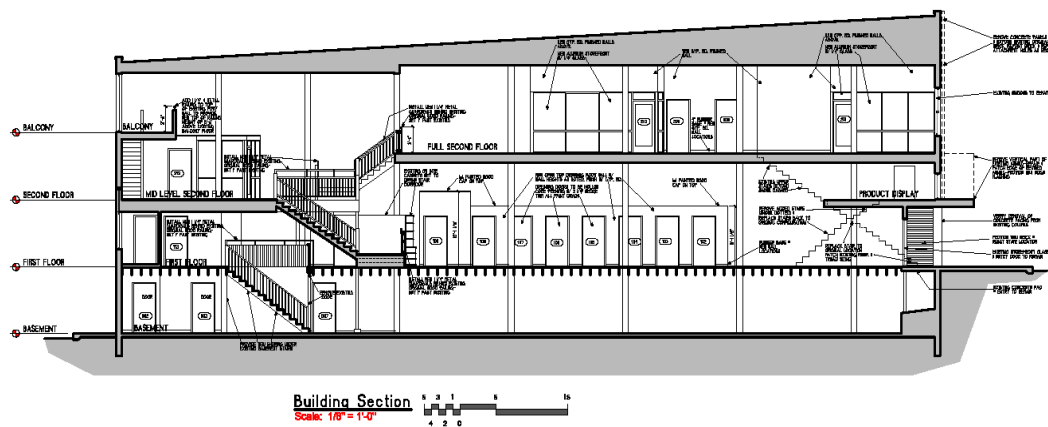
B.M.
BATESMARTIN
ARCHITECTS

BMA
PROJECT NO.
23-220

REV	
REV	
REV	
REV	

BLDG. ELEV'S.
AND SECTION

SHEET
A3.1
OF 23



Storefront Repairs

The storefront is believed to be intact in its entirety beneath the slipcover however it will need some restoration work. It should be noted that when the slipcover was applied, it was attached via posts tied into the storefront [brick] structure. It is expected that there is a thin layer of concrete slurry coating the brick from the application of the slipcover concrete aggregate. This will be challenging to remove. This is visible on the street side of the glass storefront windows. Additionally, there appear to be two small louvers or openings in the storefront, as visible in both the 1956 and 1976 photos. These may require patching as well. It is expected that bricks can be matched for this work.

The 1925-era double-hung wood sash windows are still present beneath the slipcover and will need to be restored. Providing and installing awnings to reduce solar heat loading on the upper level would be beneficial. The owner plans to maintain the original wavy single-pane glass upstairs and the transom glass above the street-level canopy.



West and Rear Facing Facade



The Owner has priced out work from a long-time brick mason ready to repoint and replace cracked bricks on the north and west-facing facades on the backside of the building. He has worked on many historic buildings and has already found matching bricks to do the work. He is just waiting on approval to start.



Historic Preservation



The owner's team has submitted preliminary information to the Texas Historic Commission to obtain pre-approval for historical recognition of the building. At this time, the concrete aggregate façade 'slipcover' is preventing this building from being a 'contributing building' to the Denton Courthouse Square Historic District.

We aim to resolve that.

As of January 4th, the preapproval is stalled out pending the removal of the storefront façade to confirm that there is enough of the 1925 storefront remaining to make it a contributing building to the Courthouse Square Historic District. As soon as we are approved to demo the slipcover, the process to unlock state and federal tax credits (funding) will move forward.

Special thanks to Mark Martin and Randy Hunt for their efforts in the design and historical research.

JC Penney & Co

The owner's team has pieced together some interesting finds of the building during the JC Penney Period.

The Photo above is a branding stamp under the stairs that lead between the basement level and the 1st floor level.

Below is an excerpt of text detailing the JC Penney initial lease/work letter from 1925. This document contains some of the finish specifications of the store and references original storefront blueprints previously attached to the landlord's work letter.



1925—J. C. Penney Building

- 7/11/1925 – Lease of building to JC Penney Co
- Mrs. Emory C. Smith granted lease to JC Penney for 10 years for \$300 monthly

No. 52681.

Lease.

THIS INDENTURE OF LEASE, made and entered into this 11th day of July A.D. 1925, by and between Mrs. Emory C. Smith, a feme sole, hereinafter called the lessor party of the first PARTIES part, and J.C. Penney Company, a Corporation existing under the laws of the State of Delaware, hereinafter called the lessee, party of the second part,

WITNESSETH: That the lessor for and in consideration of the covenants, conditions, agreements and stipulations of the lessee hereinafter expressed, does hereby demise and lease unto the lessee The First Story or ground floor and basement of her certain brick store building located on Lot 5, Block 5, of the Original Plat of the City of Denton, PREMISES Texas, being Nos. 104-106, North side of Public Square, in the City of Denton, in Denton County, Texas, less however and reserving from the operation of this lease, a space

four and one half feet wide East and West by 29 feet North and South at the Southeast corner of said building for the construction of a stairway from the sidewalk to the second story of said building.

JC Penney Co.

JC Penney & Co work letter, 1925, continued.

A future project could be to track down those documents and reconstruct an original storefront.

The best place to start to track down original blueprints would be in the JC Penney Papers, housed at the SMU Degolyer Library. The contact person may be Joan Gosnell at this library, based on her efforts to track down information on the Bonham, TX, JCP store.

MEMORANDUM SPECIFICATIONS. ALTERATIONS TO BUILDING AT DENTON, TEXAS, FOR OCCUPANCY OF J.C. PENNEY COMPANY.	
1.	Construct new plate glass front in accordance with attached blue print and detailed specifications to be furnished by J.C. Penney Company, Stairway to second floor not over four and one-half feet wide and having a run of not over twenty-five feet may be taken out of east side of front if desired by lessor, The two iron posts in existing front are to be removed and replaced with a single iron post in the center of front properly boxed with mirrors. Sheet prism in wood sash to be used in transom, above awning.
2.	Existing floor in storeroom is to be repaired wherever necessary in a manner acceptable to lessee.
3.	Construct balcony across entire rear end of storeroom 15 feet wide of 2"x6" joists, supported by not more than one post, (Rods from second floor joists may be used if desired) floored with 2 1/4" face pine flooring, Balcony to have open balustrade rail and stairway with rail leading from the ground floor, stairway to be not less than 2' 6" wide with solid risings. Under side of balcony to have a clearance of seven feet 1 1/2".
4.	Cover entire ceiling and underside of balcony with metal ceiling, not lighter than 29 gauge, of design approved by lessee, all beams to be covered with coved cornice.
5.	Provide four rows of 200 watt lighting outlets down the entire length of storeroom ceiling spaced 12 feet apart, The outside rows to be 6' from wall and the inner rows spaced approximately 12' from the outer rows. Also provide 12 ceiling fan outlets as directed. Also three gas lamp outlets down center of storeroom. Provide outside key switch for show window lights, Fans. storeroom lighting and window lighting all to be on separate circuits. Pipe storeroom for gas stoves.
6.	Put elevator in first class running order and repair and either restrict its operation to the basement and first floor or enclose it on the second floor ^{so} that it cannot be entered from the second floor except through doors which have secure locks on them and the keys to such locks <u>shall</u> be delivered to and retained by lessee during the term of their lease.
7.	Provide two toilet enclosures with outside ventilation (opening to be not less than 18x24 inches with double hung sash or pivot) each with water closet and lavatory.

JC Penney Co.



JC Penney & Co work letter, 1925, continued.

8. All panelwork (show window backing and ceiling) inside shows windows to be given two coats of enamel undercoating and one coat of equal parts enamel and enamel undercoating, color light French Grey.

Oak floor in show windows to be filled and varnished three coats best grade floor varnish.

Storeroom walls to be thoroughly cleaned, repaired, pointed up, sized where necessary and given two coats as specified above for panel work color light Tan.

Metal ceiling to be given three coats as specified above for panelwork, color Ivory White.

All interior woodwork and trim to be painted as specified above for panelwork.

9. Existing sky-lights between first and second floor may be either kept open or closed at option of lessee. Lessor agrees to pay the expense of closing this opening if notified within three weeks from the signing of this lease otherwise or if lessee elects to have glass sky-light installed cost of same is to be born by lessee.

9½ Tile for bulkhead around show windows and for vestibule to be ordered by lessee for account of lessor. Lessor agrees to pay invoice promptly upon receipt material. Any delay in completion of improvements occasioned by delay in delivery of tile shall not be charged to lessor. In case the cost of floor tile and bulkhead tile together with reasonable cost of laying time exceeds 75¢ and \$1.25 per sq foot respectively, lessee agrees to pay difference and such cost shall include transportation charges.

10. All brickwork on entire front of building to be painted two coats color to be selected by lessee. Lessee shall be permitted to erect board sign under the second story windows, also such window signs as they may desire. All signs put up by other tenants in the building shall be restricted to stairway leading from the sidewalk to the second floor and to the second floor windows. Lessee shall be permitted if they so desire to erect electrical signs at the height of second story windows.

11. Canopy over sidewalk is to be repaired in a manner satisfactory to lessee and painted as directed by lessee, this refers to existing wooden canopy or awning attached to front of building.

12. Existing stairway from ground floor up to storeroom to second floor is to be removed and the opening in second floor closed and covered with metal ceiling.

13. Lessor to provide all hardware required subject to the approval of the lessee. Windows in the rear of building at alley elevation to be barred.

14. All work to be carried out in compliance with all municipal, county and State regulations. These specifications are intended to cover work complete in every detail.

FILED FOR RECORD: Aug. 7, 1925 at 10 o'clock A.M.

RECORDED: Aug. 12, 1925 at 9:40 o'clock A.M.

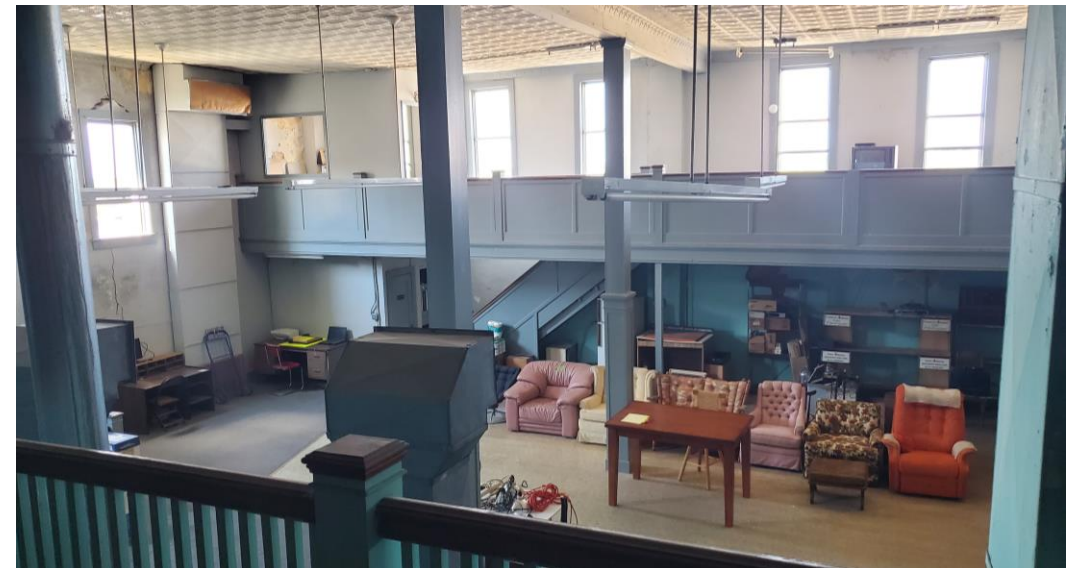
Jack Christal, County Clerk,

General Condition of the Space

Yes! There is an upstairs to this building!

This space is a bit of a time capsule. In 1925, when JC Penney Co leased this space, the building owner at that time elected to lease only the 1st floor to JC Penney. The upper level was retained for the owner's use. During the last 12 years of the JC Penney tenancy, their lease had expanded to the full building. It appears that a portion of the upper level was used for retail for that period of time.

In the 1960s, when the McNeill family leased and later purchased the building, the far upstairs level was used for storage, and the mid-upstairs level space was used for administrative / office work.



General Condition of the Space

During the 1960s remodel, the new owners 'buried' the original plaster walls with laminate paneling. They 'buried' the tin ceiling with a new acoustical lay-in grid ceiling, about 6' lower than the previous ceiling. And they buried the original wood flooring with asbestos-containing 9x9 floor tile. These items concealed 1885 to 1925 finishes that we will be revealing/ restoring with this renovation.

Many of the elements described in the 1925 JC Penney & Co. work letter are present in the interior of the building at this time, including tin ceiling tiles, skylights (openings to the upper level), and a display platform elevated above the general sales floor and wood floors. Portions of the space are still painted tan and ivory, as described in the work letter.





Summary

The intent of this presentation has been to provide a glimpse of the intended finished product of this building as well as a brief history of this building.

The new owner intends to use this building as a showpiece of what is possible in the historic preservation of 100+-year-old buildings. This building has nearly all of its amazing interior and exterior finishes that have survived the past 100 years.

The owner wants to keep these intact to the maximum extent possible for the next generations of Denton to enjoy. The owner will apply a conscientious design team and high-quality tradespersons to give a new shine to a hidden gem of a building on the downtown Denton square.

The owner intends to leave the modern single pane ground-level storefront glazing as-is for the time being but may, in the future, restore that as well to a 1925 finish if that design can be identified.

The background of the slide is a light gray color. On the left side, there is a decorative arrangement of stylized leaves. These leaves are in various shades of light gray and white, with some having white outlines and internal vein patterns. They are scattered across the left half of the slide, creating a naturalistic yet minimalist feel.

Thank you!

Peter A. Leptuch, P.E.

Little d Property Group

DentonMEP.com



June 17, 2024

Peter A Leptuch, Little D Property Group, LLC
616 W Oak Street
Denton, TX 76201

RE: 104-106 W Oak Street – Front (South) Façade Exterior Alterations

Dear Mr. Leptuch:

Pursuant to Sections 4.10.7C and 4.10.7D of the Denton Development Code,

Façade Standards

- *Existing unpainted brick and stone facades must not be painted.*
- *The ground floor of buildings must include a minimum of three (3) elements of architectural relief at least every twenty-five (25) linear feet. These elements must comply with other applicable Design Standards, and may include, but are not limited to, the following:*
 - *Doors*
 - *Change in depth*
 - *Columns or posts*
 - *Windows*
 - *Awnings*
 - *Changes in materials*
 - *Other elements of architectural relief may be approved by the Director if they are determined to meet the Overall Purpose and Intent of the District.*

Fenestration, Glazing, and Entry Standards

- *Ground floor windows must use clear glass (80% minimum Visible Light Transmittance). All window glass must allow a minimum 60% Visible Light Transmittance and must not exceed 15% Visible Light Reflectance when measured at a perpendicular angle. The use of Low Emissivity (Low-E) glass is permitted.*
- *Primary building entrances must be clearly articulated, preferably with a covered-projected type of entry. Options, which must meet all applicable Design Standards, include:*
 - *Awnings*
 - *Canopies*
 - *Recessed entry*
 - *Other similar treatments may be approved by the Director if they are determined to meet with the Overall Purpose and Intent of the District.*

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service

- *Awnings, canopies, and other covered-projected types of building features are permitted to encroach partially into the public right-of-way, but do require completion and approval of a City of Denton Right-of-Way Use permit/application.*
- *Awning, canopies, and other covered-projected types of building features must comply with the following:*
 - *Must be placed so as to provide weather protection for pedestrians.*
 - *Must be consistent in height with similar covered-projected features on adjacent or joining buildings.*
 - *Must be mounted in locations that do not obscure ornamental features over storefronts, such as rooflines, arches, and banding.*
 - *Must not exceed the width of the sidewalk*
 - *Must not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the City of Denton property maintenance code shall apply.*
 - *Must not have a dome or convex frame.*
 - *Colors of awnings, canopies, and other covered-projected types of building features must enhance and complement the building to which they are attached, rather than overwhelm the building scheme. Colors must not call more attention to the projected-covered building feature than the building.*
 - *The frame structure of such building features must be finished to match the metal storefront system color or the fabric color of the associated projected-covered type of building feature.*
 - *Such building features are not prohibited from encroaching partially into the public right-of-way, provided that a City of Denton Right-of-Way Use permit/application has been completed and approved.*

Per staff's review of the material provided, and per Sections 4.10.7C and 4.10.7D above, a Certificate of Design Consistency (DCC) is approved for the alteration of the front (south) façade at 104-106 W Oak Street. The scope of work is further described in Exhibit A.

Please note that any work that deviates from the work proposed above and within the exhibits will require a new DCC. Additionally, if the applicant has received funding through the Downtown Reinvestment Grant Program, any work deviations should be discussed with staff prior to permitting to keep the applicant in substantial conformance with the program.

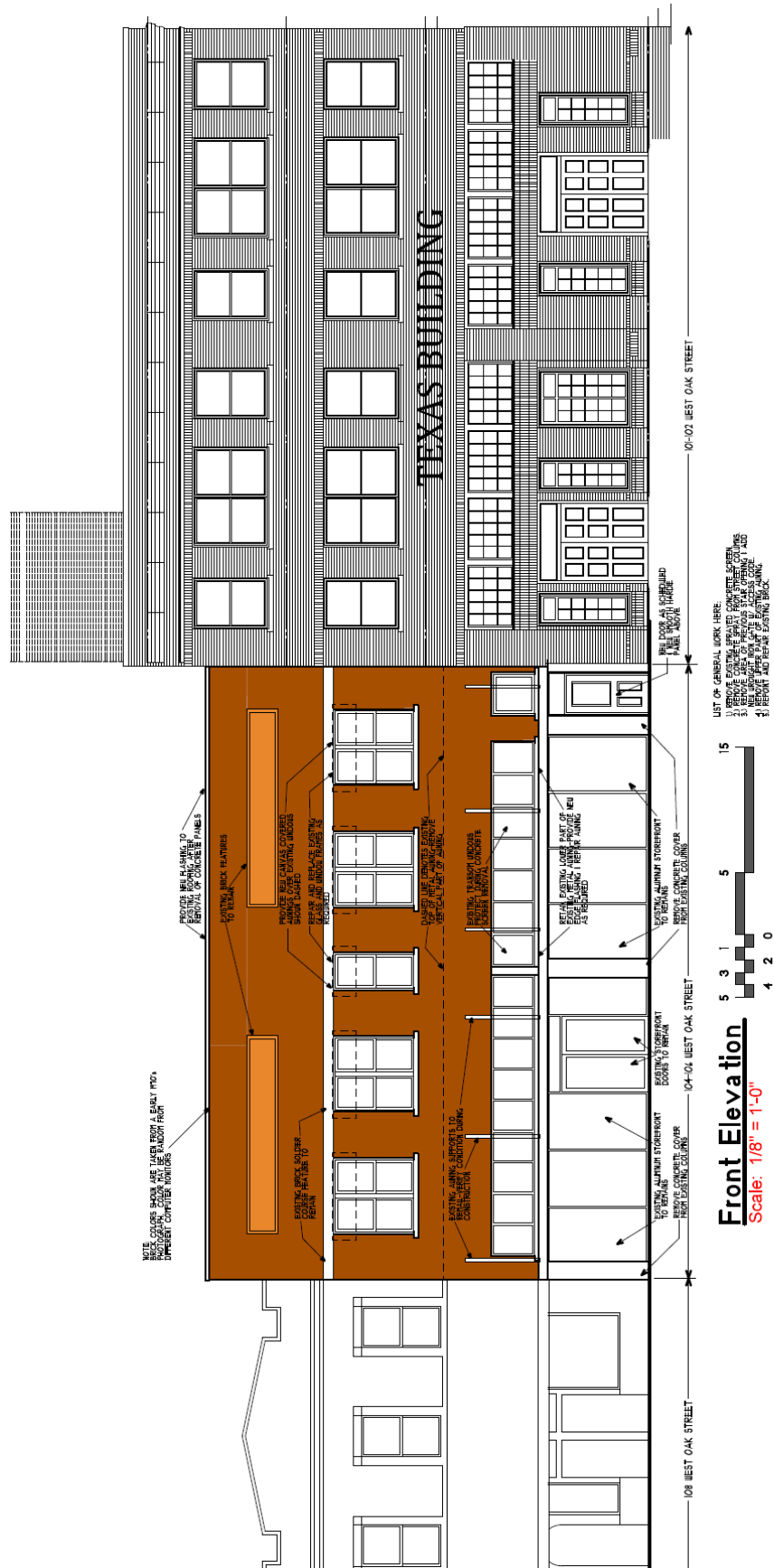
Please use this approval letter as a record of staff's review. If you have any questions or require additional information, please contact me at (940) 349-8532 or via email at cameron.robertson@cityofdenton.com.

Sincerely,



Cameron Robertson, AICP
Historic Preservation Officer

Exhibit A



LLC Search, Little D Property Group, LLC



Texas Secretary of State
Jane Nelson

UCC

Business Organizations

Trademarks

Notary

Account

Help/Fees

Briefcase

Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number:

805286646

Original Date of Filing:

October 31, 2023

Formation Date:

N/A

Tax ID:

32092306649

Duration:

Perpetual

Name:

Little d Property Group, LLC

Address:

616 W OAK ST
DENTON, TX 76201-9043 USA

Entity Type:

Domestic Limited Liability Company (LLC)

Entity Status:

In existence

FEIN:

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT
<div>Last Update</div> <div>October 31, 2023</div>	<div>Name</div> <div>Peter Leptuch</div>		<div>Title</div> <div>Manager</div>



City of Denton

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

Legislation Text

File #: ID 24-1481, **Version:** 1

AGENDA CAPTION

Consider 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 Graham Associates, Inc., amending the contract approved by City Council on October 19, 2010, in the not-to-exceed amount of \$5,444,253.00; said first amendment to provide additional engineering services needed for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 4520 - providing for an additional first amendment expenditure amount not-to-exceed \$585,141.25, with the total contract amount not-to-exceed \$6,029,394.25).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Cassey Ogden
DATE: August 6, 2024

SUBJECT

Consider 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 Graham Associates, Inc., amending the contract approved by City Council on October 19, 2010, in the not-to-exceed amount of \$5,444,253.00; said first amendment to provide additional engineering services needed for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 4520 – providing for an additional first amendment expenditure amount not-to-exceed \$585,141.25, with the total contract amount not-to-exceed \$6,029,394.25).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Enhance Infrastructure and Mobility.

INFORMATION/BACKGROUND

The Bonnie Brae Phase 3 Project consists of the widening and reconstruction of a 2-lane rural roadway to a 4-lane divided urban street from FM1515/Airport Road-I35E to Parvin Road including new roadway alignment from Parvin Road to Roselawn, tying into the newly constructed South Bonnie Brae Bridge (Phase 1). The project includes underground storm drainage, curb, gutter, 5-foot sidewalks, and 10-foot multi-use trails on either side of the roadway. Both 21 and 24-inch sanitary sewer lines and a 12-inch water line will also be replaced. Traffic signals at Roselawn Drive, FM 1515/Airport Road, and IH-35E Frontage Road will be installed as well as street lighting and an at-grade crossing at the Kansas City Southern (KCS) Railroad. University of North Texas (UNT) electrical and communications are being relocated underground through duct banks.

The project began in 2010 as Bonnie Brae South (Vintage Blvd to FM1515/Airport Road-I35E) and was later broken up into 3 phases. Both phases 1 and 2 (Vintage Blvd to Roselawn), are complete and open to traffic. Phase 3, began construction in October 2023.

The electrical duct bank work designed by Halff Associates, Inc. requires Temporary Construction Easements (TCE) in the areas where these 5 duct banks are being installed. The TCE exhibits will be prepared by Graham Associates as this scope falls under the city's existing agreement.

Through the course of the project, TxDOT notified the city of upcoming construction projects of FM1515/Airport Road and I35E. These projects required coordination with TxDOT staff and design modifications to the city's Bonnie Brae Phase 3 project to ensure a successful tie-in with future TxDOT

projects. For this work to be done expeditiously and meet TxDOT's timeframe, funds from other tasks not yet performed were reappropriated to these design efforts through executed work authorization amendments.

This Amendment No. 1 will include efforts for the Letters of Map Revision (LOMR) with the Federal Emergency Management Agency (FEMA) still ongoing for all 3 phases of the project and ongoing KCS coordination as phase 3 drainage outfalls into the railroad ROW requiring KCS to modify its facilities.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 10, 2010, City Council approved a contract with Graham Associates, Inc., in the not-to-exceed amount of \$5,444,253 (Ordinance 2010-268).

RECOMMENDATION

Award Amendment No. 1 with Graham Associates, Inc., for additional engineering services needed for the Bonnie Brae Phase 3 Widening and Reconstruction Project for the Capital Projects Department, in a not-to-exceed amount of \$585,141.25, for a total amended contract amount of \$6,029,394.25.

PRINCIPAL PLACE OF BUSINESS

Graham Associates, Inc.
Arlington, TX

ESTIMATED SCHEDULE OF PROJECT

Construction of Bonnie Brae Phase 3 is anticipated to be complete by April 2026. Efforts needed by Graham are expected to be complete by December 2026.

FISCAL INFORMATION

These services will be funded from South Bonnie Brae – Streets/Traffic CO account number 350288402.1360.21100. Purchase Order #151900 will be revised to include the first amendment amount of \$585,141.25. The total amended amount of this contract is \$6,029,394.25.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Original Ordinance and Contract
Exhibit 3: Ordinance and Amendment No. 1

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

For information concerning this amendment, contact: Robin Davis, 940-349-7713.

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

ORDINANCE NO. 2010-268

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT FOR ARCHITECT OR ENGINEER WITH GRAHAM ASSOCIATES, INC. PERTAINING TO THE CITY OF DENTON BONNIE BRAE WIDENING AND IMPROVEMENTS PROJECT, RELATING TO DESIGN, ENGINEERING AND RELATED SERVICES FOR SAID PROJECT; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FOR A TOTAL FEE OF NOT-TO-EXCEED \$5,444,253).

WHEREAS, the City Council deems it necessary and appropriate and in the public interest to engage the design and engineering firm of Graham Associates, Inc., a corporation (hereafter "GAI") with its corporate office at 600 Six Flags Drive, Suite 500, Arlington, Texas 76011, to provide the City with professional design and engineering services pertaining to the City of Denton Bonnie Brae Widening and Improvements Project, hereafter referred to as the "Project;" and

WHEREAS, the City staff has reported to the City Council that this project is a major project and 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 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 is of the opinion, and finds and concludes that GAI is appropriately qualified under the provisions of the law, to be retained as a design and engineering 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 "Professional Services Agreement for Architect or Engineer" pertaining to the Project; 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 "Professional Services Agreement for Architect or Engineer" (the "Agreement") with the engineering firm of Graham Associates, Inc., a Corporation, for professional design and engineering services pertaining to the

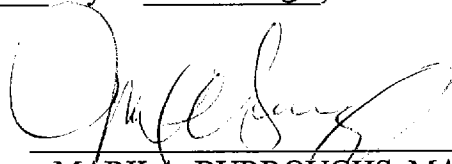
Project, as hereinabove described, in substantially the form of the Agreement which is attached hereto as Exhibit "A," which is incorporated herewith by reference.

SECTION 3: The award of this Agreement is on the basis of the demonstrated competence and qualifications of the firm of GAI, and the ability of GAI, to perform the professional design and engineering and related services needed by the City for a fair and reasonable price.

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

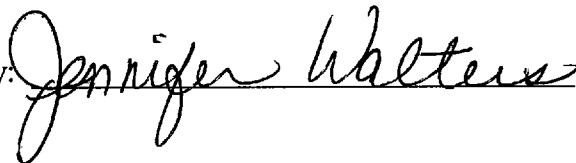
SECTION 5: This ordinance shall become effective upon its passage and approval.

PASSED AND APPROVED this the 19th day of October, 2010.

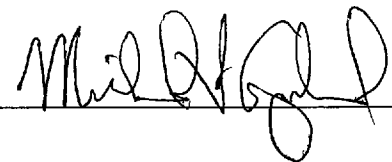


MARK A. BURROUGHS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

By: 

**PROFESSIONAL SERVICES AGREEMENT
FOR ARCHITECT OR ENGINEER**

THIS AGREEMENT is made and entered into as of the 19th day of October, 2010, 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 Graham Associates, Inc., with its corporate office at 600 Six Flags Drive, Suite 500, Arlington, Texas 76011 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, but shall not be limited to the following major components (for a more precise or comprehensive description of the Scope refer to **Exhibit 2**, Attachment E):

A. Conceptual Design Plans

Task 1: Bonnie Brae Street (City Portion) - Conceptual plans (30% Plans) for this section of the project shall be prepared to such detail as is necessary to resolve all conceptual issues. Conceptual plans must be approved by Owner prior to Design Professional commencing with the preparation of preliminary design construction plans.

Task 2: US Hwy 377 and FM 1515 – Prepare Geometric Design Plans – Plans for this project shall be prepared in accordance with Texas Department of Transportation (TxDOT) design criteria on such a scale (not smaller than 1" = 100') and to such detail as is necessary to resolve major design issues. Design Professional shall prepare geometric plans which will include the following:

1. Horizontal alignment of proposed paving, medians, etc.
2. Vertical alignment of proposed roadway.
3. The project traffic volumes (A.D.T.).
4. Direction of traffic flow on all roadways.
5. An opinion of probable construction costs.
6. The approximate location of all existing and proposed driveways within limits of the project.

7. The location of all trees with a diameter of six inches (6") or greater.
8. A preliminary drainage study, including drainage areas, location and size of existing drainage facilities, the approximate size and alignment of proposed drainage facilities, and approximate discharges.
9. Approximate dimensions of existing and proposed right-of-way and easements.

Task 3: Union Pacific Railroad (U.P.R.R.) and Kansas City Southern Railroad (K.C.S.R.R.) Permit

1. Horizontal alignment of proposed roadway and track work.
2. Vertical profiles of proposed roadway and track work.
3. Typical sections.
4. Sequence of work.
5. Summary of work to be completed by Contractor.
6. Summary of work to be completed by the Railroad.
7. Submitting plans to U.P.R.R. and K.C.S.R.R. for approvals.
8. Pedestrian crossing for the U.P.R.R. and K.C.S.R.R.

B. Preliminary Design Construction Plans

Task 1: Bonnie Brae Street and U.S. Hwy 377 and FM 1515 (TxDOT Portion) – Prepare 30% Plans, Specifications, and Estimate (P.S.&E) documents for TxDOT.

1. Preliminary plans title sheet with index of sheets.
2. Project layout.
3. Existing/proposed typical sections.
4. Preliminary plans summary sheets.
5. Alignment sheets.
6. Plan/profile sheets for all alignments (horizontal and vertical alignments final upon approval of 30% plans level).
7. Preliminary plans intersection layouts.
8. Drainage area maps.
9. Hydraulic computations.
10. Preliminary plans culvert layouts.
11. Preliminary plans storm sewer layouts.
12. Preliminary plans water and sanitary sewer layouts only.
13. Pavement design report.

Task 3: Union Pacific Railroad and Kansas City Southern Railroad

1. Meetings at Dallas/ Fort Worth Division office.
2. Preliminary engineering required to satisfy U.P.R.R. and K.C.S.R.R.
3. Preliminary work on utility relocations.

C. Preliminary Right-of-Way Documents, 60% Plans for Bonnie Brae Street – City Portion, Preliminary Construction Plans Union Pacific Railroad and Kansas City Southern Railroad.

Task 1: - Right-of-Way Determination for the project streets - In conformance with City and State standards, Design Professional shall survey, render field notes, and prepare detailed plans (right-of-way strip maps) and individual parcel exhibits for any additional right-of-way and/or easements, including temporary construction easements, needed. Design Professional shall also set control points, which shall be based on NAD-83, on both sides of the road. The required items are necessary for the acquisition of right-of-way required to construct Project. This information shall be required prior to acceptance of final construction plans.

Task 2: Bonnie Brae Street (City Portion 60% Plans) - At such time as Design Professional is directed by Owner, Design Professional shall prepare the following:

1. Title sheet with index of sheets.
2. Project layout.
3. Existing/proposed typical sections.
4. Plans summary sheets.
5. Plans traffic control plan.
6. Alignment sheets.
7. Plan/profile sheets for all alignments.
8. Intersection layouts.
9. Miscellaneous roadway details.
10. Drainage design.
11. Drainage area maps.
12. Hydraulic computations.
13. Water and sewer plan
14. Culvert layouts.
15. Storm sewer layouts.
16. Utility exhibits.
17. Traffic signal layouts.
18. Illumination layouts.
19. Signing layouts.
20. Pavement marking layouts and delineation.
21. Erosion Control layouts.
22. Cross-sections.

The preliminary plans will include water, sewer, and drainage improvements design, and preliminary work on utility relocations.

Task 3: – Prepare 60% P.S.&E. Documents for TxDOT for the intersection of Bonnie Brae Street with U.S. Hwy 377 and FM 1515.

23. Address 30% comments.
24. Update title sheet with index of sheets.
25. Project layout.
26. Final existing/proposed typical sections.
27. Preliminary plans summary sheets.
28. Preliminary plans traffic control plan.
29. Alignment sheets.
30. Plan/profile sheets for all alignments.
31. Preliminary plans intersection layouts.
32. Miscellaneous roadway details.
33. Final drainage design.
34. Drainage area maps.
35. Hydraulic computations.
36. Preliminary plans water and sewer.
37. Culvert layouts.
38. Storm sewer layouts.
39. Final utility exhibits.
40. Preliminary plans traffic signal layouts.
41. Preliminary plans illumination layouts.
42. Preliminary plans signing layouts.
43. Preliminary plans pavement marking layouts and delineation.
44. Preliminary plans for Erosion Control layouts.
45. Update cross-sections.
46. Update cost and schedule.
47. Subsurface Utility Engineering (S.U.E.) work for utility relocations.

Task 3: Union Pacific Railroad and Kansas City Southern Railroad

1. Meetings at Dallas/Fort Worth Division office.

D. Final Construction Plans

Task 1: Final Design Construction Plans (90% Plans) – Bonnie Brae Street – City Portion.

1. Construction plans.
2. Bid proposal.
3. Special specifications as required.

Task 2: Prepare 90% P.S.&E. Documents for TxDOT on U.S. Hwy 377 and FM 1515.

1. Update 60% comments.
2. Update title sheet with index of sheets.
3. Project layout.
4. Existing/proposed typical sections.

5. Summary sheets.
6. Traffic control plan with signing and warning devices.
7. Alignment sheets.
8. Plan/profile sheets.
9. Intersection layouts.
10. Miscellaneous roadway details.
11. Drainage area map.
12. Hydraulic computations.
13. Bridge layouts (includes bridge class box culverts).
14. Culvert layouts.
15. Storm sewer layouts.
16. Utility exhibits.
17. Traffic signal layouts.
18. Illumination layouts.
19. Signing layouts.
20. Pavement markings layouts and delineation.
21. Erosion Control layouts.
22. Cross-sections.
23. Update cost and schedule.
24. Completed general notes, specification data sheets, special provisions, special specifications.
25. Completed contract time determination, other supporting paperwork needed for submittal.
26. Complete project certification forms for right-of-way, encroachment, individual relocation, and utility relocation.

Task 3: Kansas City Southern and Union Pacific Railroad

1. Coordination with Main Office, and Dallas/ Fort Worth District.
2. Prepare preliminary agreements between K.C.S.R.R. and City and the U.P.R.R. and City.
3. Subsurface Utility Engineering Plans in the area to determine location of existing utilities to aid in the design of improvements crossing the railroad including drainage.

Task 4: Right-of-Way

1. Prepare final right-of-way plans and documents for all streets on the project.

E. 100%Construction Plans, Right-of-Way, and Specifications

Task 1: 100% Bonnie Brae Street – City Portion

1. Revise plans per Owner's review comments.
2. Revise specifications/bid documents per Owner's review comments.

3. Revise right-of-way documents per Owner's review comments.

Task 2: 100% P.S.&E. for U.S. Hwy 377 and FM 1515.

1. Complete all revisions and additional information requested by the Owner based on comments received from TxDOT.
2. District certification of local environmental document, right-of-way, encroachments, individual relocations, and utility relocation status form.

Task 3: Union Pacific Railroad and Kansas City Southern

1. Any changes to plans requested by Owner per U.P.R.R. and K.C.S.R.R. review.
2. Finalize contracts between Railroads and the City of Denton for bidding of project.

F. Miscellaneous Requirements –

1. Design Professional shall furnish, upon request by Owner, one (1) set of film reproduces of the "Final" approved and dated plans. Design Professional shall submit an electronic copy of the drawings in a format acceptable to the Owner.
2. The Design Professional shall also prepare Record Drawings utilizing the construction plans based upon redline markups reflecting any field changes. The Contractor shall prepare and supply the redline markups to the Design Professional after construction is complete. Design Professional shall submit one (1) set of film reproduces and an electronic copy of the Record Drawings in a format acceptable to the Owner.

SECTION 2 **COMPENSATION**

Total compensation for the Design Professional contemplated under the terms of this agreement shall be \$5,444,253.00 for all services including reimbursable expenses. The Owner shall compensate the Design Professional as follows:

2.1 BASIC SERVICES

2.1.1 For Basic Services the total compensation shall be \$2,432,105.

2.1.2 Progress payments for Basic Services shall be paid monthly based on the actual work satisfactorily completed per month in each phase as a percentage of the overall compensation for that phase, with the following percentages of the total compensation for the Basic Services for each phase of the Project:

Schematic Design Phase	17.8%
Design and Development Phase	38.9%
Construction Documents Phase	36.2%
Bidding Phase	0.6%
Construction Phase	<u>6.5%</u>
	100%

2.2 ADDITIONAL SERVICES

2.2.1 For Additional Services the total compensation shall be \$2,962,148. Compensation for Additional Services shall be based on actual services authorized and performed with lump sum or maximum not to exceed subtotals depending on the service provided all as shown in **Exhibit 2**, Attachment A. The schedule for the hourly rates is attached as **Exhibit 4**.

2.2.2 Compensation for Additional Services of consultants, including additional structural, mechanical and electrical engineering services, geotechnical services, right-of-way services, etc. shall be based on a multiple of 1.1 times the amounts billed to the Design Professional for such additional services.

2.3 REIMBURSABLE EXPENSES Reimbursable Expenses shall be a multiple of 1.05 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 \$50,000.00 without the prior written approval of the Owner. This amount does not include appraisals, escrow fees, abstract fees, title fees, FEMA review fees.

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:

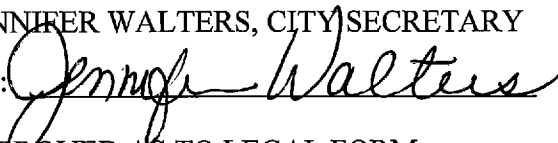
- Exhibit 1. City of Denton General Conditions to Agreement for Architectural or Engineering Services.
- Exhibit 2. The Design Professional's Proposal
 - Attachments A through E:
 - Attachment A – Summary of Engineering Fees
 - Attachment B – Projected Plan Sheets
 - Attachment C – Organizational Chart
 - Attachment D – Estimate of Construction Costs
 - Attachment E – Scope of Services and Deliverables
- Exhibit 3. Project Schedule
- Exhibit 4. Schedule of Rates

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

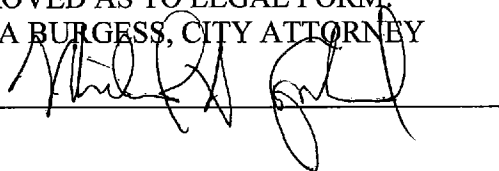
CITY OF DENTON, TEXAS
A Municipal Corporation

BY: 
GEORGE C. CAMPBELL
CITY MANAGER


ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: 

GRAHAM ASSOCIATES, INC.
A Corporation

BY: 
W. JEFF WILLIAMS, P.E.
PRESIDENT

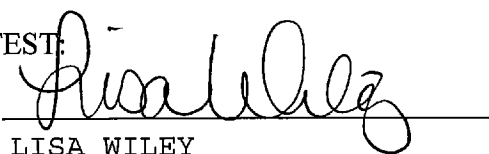
ATTEST:
BY: 
LISA WILEY

Exhibit 1

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.

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.



Graham Associates, Inc.
CONSULTING ENGINEERS & PLANNERS

Exhibit 2
The Design Professional's Proposal

October 6, 2010

Mr. Frank Payne, P.E.
City Engineer
City of Denton
901-A Texas Street
Denton, Texas 76209

RE: Proposal for Professional Services
Engineering Design of Bonnie Brae Street Widening and Improvements

Dear Mr. Payne:

Graham Associates is pleased to present this proposal to provide professional services for the survey, right-of-way acquisition, design, and construction administration to widen and improve Bonnie Brae Street. Our staff and sub-consultants proposed for the project are shown in the attached organizational chart (Attachment C). The summary of fees is shown in Attachment A, which includes both basic and additional services. The estimate of construction costs for Bonnie Brae is shown in Attachment D. The proposed scope of services and deliverables are shown in Attachment E. Proposed schedules are shown attached as Exhibit 3. The schedule of rates is attached as Exhibit 4.

Graham Associates shall comply with the City of Denton's "General Conditions to Agreement for Architectural or Engineering Services". Our firm shall also meet or exceed the insurance requirements of Denton including a \$3 million professional liability insurance policy.

Payment for Basic Services listed in Exhibit 3 shall be made monthly based on proportion of services performed within each phase of work. Payment for Additional Services and reimbursable expenses listed in Attachment A shall be made monthly based on statement of services rendered or expenses incurred.

Please contact me if you need further information.

Respectfully Submitted,

W. Jeff Williams, P.E.
President
Graham Associates, Inc. TBPE Firm #F-1191

Summit Office Park
1300 Summit Ave., Suite 419
Ft. Worth, Texas 76102-4418
(817) 332-5756
Fax (817) 336-6909

Centerpoint Three
600 Six Flags Drive, Suite 500
Arlington, Texas 76011-6356
(817) 649-1914 • Metro (817) 640-8535
FAX (817) 633-5240

Chase Bank
3200 Broadway Blvd. Suite 268
Garland, Texas 75043-1571
(972) 840-6671
FAX (972)-840-6671

Summary of Engineering Fees
Bonnie Brae Street
Exhibit 2, Attachment A
October 2010

Basic Services		Fee
1) TxDOT Geometrics F.M. 1515/Bonnie Brae Intersection		\$56,170
2) Bonnie Brae Construction Plans		\$1,116,450
3) Construction Plans U.S. Hwy. 377/Bonnie Brae Intersection		\$66,875
4) Construction Plans Vintage Blvd./Bonnie Brae Intersection		\$49,050
5) Construction Plans F.M. 1515/Bonnie Brae Intersection		\$165,570
6) Union Pacific Railroad - On Grade Crossing		\$22,905
7) Kansas City Southern Railroad - On Grade Crossing		\$22,905
8) Bonnie Brae Traffic Control		\$135,000
9) Utility Coordination		\$39,300
10) Design of Bridges, Culvert Crossings, Channel Improvements		\$513,000
11) Design of Shoring and Retaining Walls		\$28,280
12) Quality Assurance/Quality Control		\$37,800
13) Bidding/Construction Administration		\$178,800
TOTAL BASIC SERVICES		\$2,432,105

Summary of Engineering Fees
Bonnie Brae Street
Exhibit 2, Attachment A
October 2010

<u>Additional Services</u>		<u>Fee</u>
1) Design Surveying		\$217,450
* 2) U.S.A.C.E. 404 Permitting		\$69,380
3) Hydraulics and Hydrologic Analysis/FEMA, CLOMR & LOMR		\$143,810
4) Traffic Signal Design		\$164,538
5) Geotechnical Analysis for Design		\$161,579
* 6) S.U.E. for Railroads/TxDOT Areas		\$50,380
7) Environmental Assessments		\$109,508
8) Right-of-Way		\$139,500
9) Additional Service Construction Administration		\$374,400
10) Right-of-Way Acquisition Services		\$941,875
11) Geotechnical Materials and Construction Testing		\$544,500
12) Traffic Engineering		\$45,228
TOTAL ADDITIONAL SERVICES		2,962,148
TOTAL BASIC SERVICES		2,432,105
REIMBURSABLE EXPENSES		50,000
TOTAL FEES		5,444,253

* USACE - United States Army Corps of Engineers

* SUE - Subsurface Utility Exploration

Exhibit 2 - Attachment B

ESTIMATED SHEET TOTALS - CITY PORTION

<u>Sheet Description</u>	Schedule I - IH-35E to Roselawn Dr	Schedule II - Roselawn Dr. to Vintage Blvd.	Schedule III - Vintage Blvd. to SH 377
	<u>Number of Sheets</u>	<u>Number of Sheets</u>	<u>Number of Sheets</u>
Cover Sheet	1	1	1
Quantity Sheets	7	6	6
Survey Control Layout	5	6	4
Typical Sections	3	5	3
Erosion Control	9	10	7
Erosion Control Plans	0	1	0
Erosion Control Details	0	2	0
Traffic Control	15	16	12
Paving Plan/Profiles	22	13	15
Intersection Grading Plan	2	1	0
Intersection Layouts	0	1	0
Driveways	5	2	2
Bridge Plans	0	57	38
Retaining Walls	4	4	4
Drainage Area Map	3	2	2
Runoff Computations	2	2	2
Inlet Computations	2	2	2
Storm Drainage Computations	3	2	2
Drainage Plan/Profiles	18	10	14
Drainage Laterals	2	2	3
Channel Grading	2	4	3
Street Lights	9	8	7
Pavement Markings & Signage	9	8	7
Traffic Signals	24	7	0
Details	76	56	54
Subtotal Number of Sheets =	223	228	188
Cross-Section Plans			
Cover	1	1	1
Cross-Sections	54	39	47
Subtotal Number of Sheets =	55	40	48
Total Number of Sheets =	278	268	236
Total Number of Sheets for City Portion =		782	

Exhibit 2 - Attachment B

ESTIMATED SHEET TOTALS - TXDOT PORTION

<u>Sheet Description</u>	US Highway 377 (Fort Worth Drive)	FM 1515 & IH 35E
	<u>Number of Sheets</u>	<u>Number of Sheets</u>
Title Sheet	0	1
Index of Sheets	0	2
Typical Sections	2	4
Sheet Quantities	0	9
Earthwork Quantities	0	1
Traffic Control	6	10
Traffic Control Details	14	14
Removal Layout	2	4
Survey Control Data	1	1
Centerline Control	1	1
Paving Control	1	1
Paving Layout	2	2
Plaving Plan/Profiles	2	4
Driveway Details	0	1
Intersection Layouts	1	2
Roadway Details	3	11
Retaining Wall Key Maps	0	1
Retaining Wall Layout	0	8
Retainign Wall Details	0	10
Drainage Area Maps	2	4
Runoff Computations	1	2
Storm Sewer Computations	0	2
Culvert Computations	1	0
Storm Sewer Plan/Profiles	0	4
Storm Sewer Laterals	0	2
Ditch Plan/Profiles	4	0
Culvert Plan/Profiles	3	0
Drainage Details	5	16
Existing Utilities	2	4
Signing Layout Sheets	2	3
Signing Details	6	14
Pavement Markings	2	3
Pavement Markings Details	2	5
Traffic Signals	7	10
Traffic Signal Details	4	10
Erosion Control Plans	4	4
Erosion Control Details	2	7
Cross-Sections	4	8
Total Number of Sheets =	86	185

Total Number of Sheets for TXDOT Portion = 271

Exhibit 2 - Attachment B

Right-Of-Way Strip Maps

City Right-Of-Way Strip Maps

<u>Sheet Description</u>	<u>Number of Sheets</u>
Cover Sheet	1
Parcel Summary	5
Right-Of-Way Map Sheets	26
Total Number of Sheets =	32

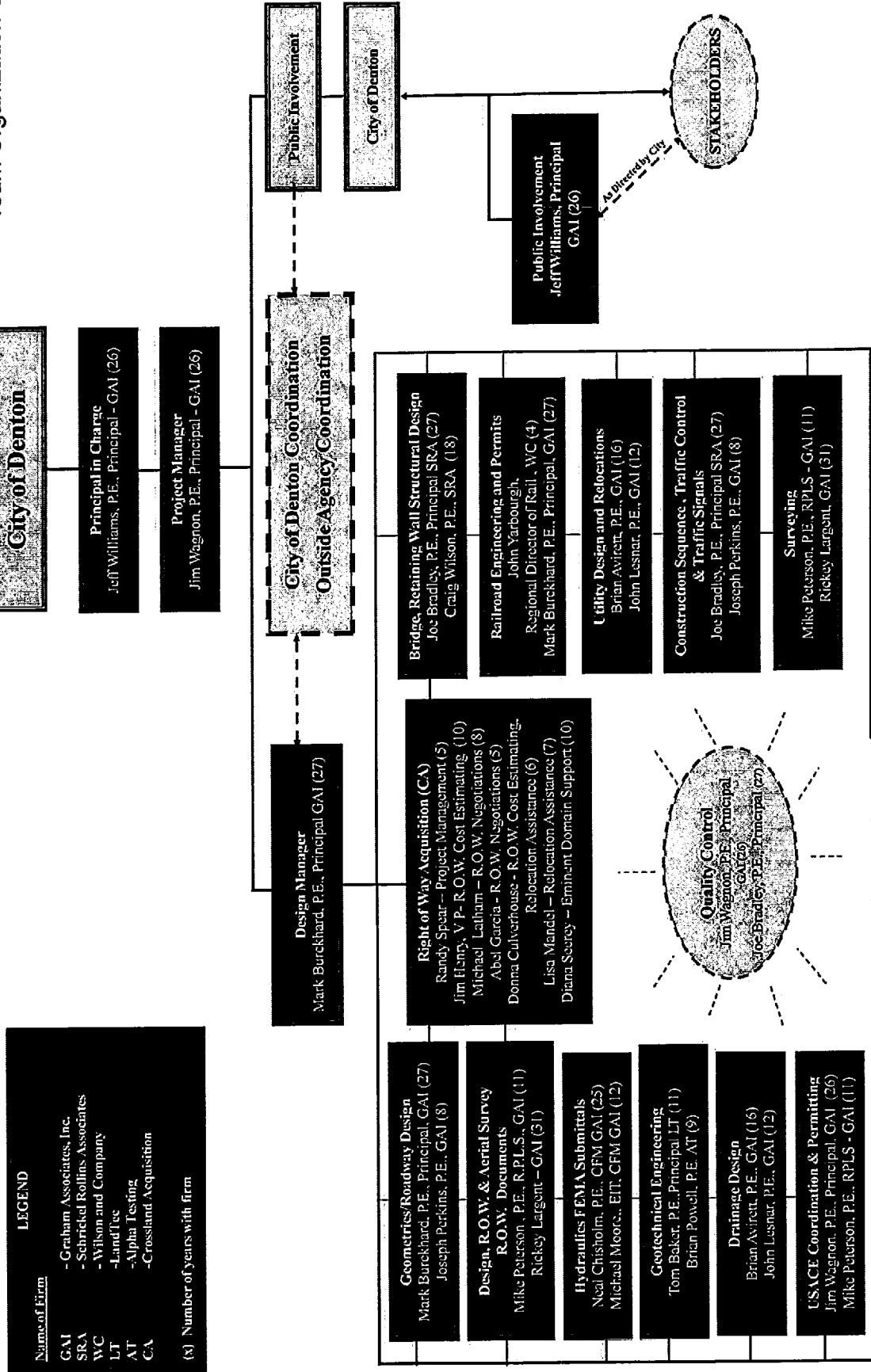
TXDOT Right-Of-Way Strip Maps

<u>Sheet Description</u>	<u>Number of Sheets</u>
Cover Sheet	1
Right-Of-Way Map Sheets	2
Whole Property Sheet	1
Property Data	1
Point of Beginning Location Data	1
Total Number of Sheets =	6

Total Number of Sheets for All Plan Sets = 1091

Bonnie Brae Street Capital Improvement Project

Team Organization Chart



**Exhibit 2
Attachment D
Estimate of Construction Costs
Bonnie Brae Street Summary**

Paving, Traffic Control, Retaining Walls (City Portion)	\$17,777,875.00
Roark Creek Bridge	\$2,627,625.00
Hickory Creek Bridge	\$6,361,375.00
U.P.RR (At Grade Crossing)	\$875,000.00
K.C.S. RR (At Grade Crossing)	\$875,000.00
Traffic Signals (City Portion)	\$1,360,000.00
Drainage (City Portion)	\$3,634,438.75
Street Lights (City Portion)	\$1,288,811.00
Pavement Markings (City Portion)	\$446,368.00
Landscaping & Irrigation	\$0.00
Enhancements	\$0.00
U.S. Hwy 377 Intersection	\$1,459,178.72
Vintage Boulevard Intersection	\$914,288.75
F.M. 1515 Intersection	\$3,370,029.10
Water	\$0.00
Sewer	<u>\$0.00</u>
Total	\$40,989,989.32

Since Graham Associates, Inc. has no control over the costs of labor, materials or equipment, or over contractor's methods of determining prices, or over competitive bidding or market conditions, this opinion of probable cost is made on the basis of our professional experience and represents our best judgment as a firm familiar with the construction industry. We cannot guarantee that proposals, bids or the project costs will not vary from the opinion of probable cost prepared by Graham Associates.

ATTACHMENT E

SCOPE OF SERVICES, DELIVERABLES AND RESPONSIBILITIES OF OWNER BONNIE BRAE STREET IMPROVEMENTS FOR THE CITY OF DENTON

GENERAL: The City of Denton Bonnie Brae Street Improvements Project (the Project) will include preparation of construction plans and bid documents, opinions of probable construction costs, identification of right-of-way requirements and necessary ROW acquisitions, Owner utility relocation, franchise utility relocation coordination, permitting and construction phase services.

ARTICLE I

BASIC SERVICES: GAI shall render the following professional services in connection with the development of the Project:

A. Conceptual Design

1. Attend a kick-off meeting with the Owner to discuss the various aspects of the project including planning and design criteria, work program and schedule, procedures of communication, and assignments of personnel.
2. Obtain from the Owner, franchise utility providers, and the Texas Department of Transportation (TxDOT) all available record drawings, planning reports, traffic counts, zoning ordinances, and other data that may be pertinent in considering the development of the preliminary alignments and the final design of the proposed improvements.
3. Determine from a field reconnaissance of the project area the general layout of the land for the improvements including location of existing above ground utilities and drainage structures.
4. Develop a schematic layout with two (2) roadway route alternatives at critical locations along the alignment. Submit four (4) copies of the schematic layout to the Owner for review.
5. Prepare preliminary bridge layouts for each of the creek crossings.
6. Attend meeting with Owner to discuss potential utility conflicts and the proposed relocation plan. GAI will meet with the Owner's Project Manager and Engineering staff first and utility staff later if necessary.
7. Attend a meeting with the Owner to discuss the alignment alternatives and recommendations.
8. Upon approval of alignment and schematic design, GAI shall develop a geometric alignment for F.M. 1515 and Bonnie Brae intersection in accordance with TxDOT requirements.

9. Upon Owner approval of alignment and the schematic design GAI will develop a 30% construction plan set with paving plan/profile sheets, intersection layouts, right-of-way sheets, drainage area maps, culvert layouts, bridge layouts and hydraulic computation sheets for Bonnie Brae and the following intersections:
 - a) U.S. Highway 377
 - b) Vintage Blvd.
 - c) F.M. 1515
 10. Prepare plans for on grade railroad crossing for the following two(2) railroad crossings; A) Union Pacific Railroad; B) Kansas City Southern Railroad. The plans shall be in accordance with the City's and the Railroad's standards and requirements. Submit and coordinate during the review process.
- B. Preliminary Design (60%) - Upon review of the 30% plans by the Owner, GAI will prepare preliminary construction plans as follows:
1. Prepare preliminary paving plan and profile sheets showing curb lines, driveways, elevations at all points of vertical intersection and point of intersections in the paving plan; typical sections; cross sections; high and low points, vertical curve information, and pertinent AASHTO calculations.
 2. Prepare a Pavement Design Report documenting the existing soil conditions and providing pavement design recommendations based on (at a minimum) a 40-year design life, 10% truck loading and traffic volumes as agreed upon with the Owner.
 3. Prepare preliminary drainage sheets including drainage area maps, plan and profiles, and hydraulic computations.
 4. Initiate coordination of utility relocations with utility owners, and prepare preliminary design of relocations of affected City water and sewer lines. GAI shall provide the design for the relocation of conflicting water and wastewater utilities.
 5. Prepare bridge layout, typical sections, foundation layout, abutment plan, and beam and bent plans.
 6. Hydraulic Design of the Bridges and Culverts
 - a) 60% Design Submittal: Update hydraulic design of bridges and culverts as necessary to reflect roadway design and to address Owner comments.
 - (i) Update hydraulic models of bridges and culverts as necessary to reflect 60% roadway design.
 - (ii) Preparation of Bridge Scour Analyses for each of the creek crossings.
 - (iii) Update the following sheets as necessary for 60% submittal:
 - (1) Drainage Area Maps
 - (2) Hydraulic Computations

- (3) Culvert Layouts
- (4) Hydraulic Data Sheets for Bridges

7. Prepare plan/profile and construction details for retaining walls and necessary shoring design.
 8. Prepare Construction Phasing Plan including pavement phasing, transition segments, and construction detour plans. Develop construction phasing typical cross sections at key locations.
 9. Prepare traffic control plans based on the construction phasing in accordance with AASHTO and the City of Denton.
 10. Prepare a preliminary estimate of probable construction cost and submit with four (4) sets of plans for review.
 11. Meet with the Owner to discuss the preliminary design. GAI assumes that we will meet with the Owner three (3) times during the preliminary design phase.
 12. Submit preliminary plans to utility companies for review and comment. Attend a preliminary coordination meeting with the franchise utility companies.
 13. GAI will attend a coordination meeting with DCTA and TxDOT to coordinate plan approval and permits for the project.
- C. Final Design - Following Owner approval of preliminary plans, GAI shall prepare final plans with the following additional tasks:
1. Prepare final construction drawings for paving, bridge, MSE retaining walls, drainage, traffic signal, at grade railroad crossings and City utility improvements.
 2. This includes the final hydraulic design of bridges and culverts including scour analyses for the proposed bridges as necessary, and preparation of plans, specifications, and estimates.
 - a) Final Design Submittal
 - (i) Provide final hydraulic models to reflect 90% roadway design.
 - (ii) Update the following sheets as necessary for 90% submittal:
 - (1) Drainage Area Maps
 - (2) Final Hydraulic Computations
 - (3) Final Culvert Layouts
 - (4) Hydraulic Data Sheets for Bridges
 - (5) Detail Sheets (special and standard details)
 - (6) Notes
 - (7) Final grading layouts

- (8) Quantities for bid proposal
- (9) Technical specifications for bridge and culvert construction

- 3. Prepare final technical specifications and bid documents for the project, including bid proposal forms (project quantities) of the improvements to be constructed. This Scope of Services assumes that the project will be prepared using standard bid documents provided by GAI.
 - 4. Provide quality control by independent review of plans and specifications by Senior Engineer, not on the design team.
 - 5. Prepare a final opinion of probable construction cost based on recent project unit bid prices.
 - 6. Furnish four (4) sets of drawings for review by the Owner at the 60% and 90% design stages, and meet with the Owner to review and discuss the plans. The review meetings will be conducted to address review comments and to take action on items to produce the final construction documents. GAI assumes that we will meet with the Owner three (3) times during each part of the final design phase (60% and 90%).
- D. Bidding and Construction Administration Phase – Assist Owner in securing bids. Issue a Notice to Bidders to prospective contractors in GAI's database of prospective bidders, and to selected plan rooms. Provide a copy of the Notice to Bidders for Owner to use in notifying construction news publications and publishing appropriate legal notice. The cost for publications shall be paid by the Owner. GAI will prepare two (2) separate bid packages for the project, with the following to be provided for each bid package.
- 1. Print thirty (30) sets of 11" x 17" Plans and Bid Documents and distribute to selected plan rooms, and to prospective bidders that respond to the Notice to Bidders.
 - 2. Assist Owner by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders if necessary.
 - 3. Attend one pre-bid meeting to answer questions related to the bid documents.
 - 4. Assist Owner in the opening, tabulating, and analyzing the bids received. Review the qualification information provided by the apparent low bidder. Recommend award of contract or other actions as appropriate to be taken by the Owner.
 - 5. Assist Owner in the preparation of Construction Contract Documents. Provide ten (10) sets of Construction Contract Documents which include information from the apparent low bidder's bid documents, legal documents, and addenda bound in the documents for execution by the Owner and construction contractor. Distribute five (5) copies of these documents to the contractor with a notice of award that includes directions for the execution of these documents by the construction contractor. Provide Owner with the remaining five (5) copies of these documents for use during construction. Additional sets of documents can be provided as an additional service.

6. Furnish contractor copies of the drawings and specifications for construction pursuant to the General Conditions of the Construction Contract.
7. Attend one (1) pre-construction meeting per bid project to discuss the project schedule for construction.
8. GAI design team staff will make (24) visits to the site to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the construction contract documents. In this effort GAI will endeavor to protect the Owner against defects and deficiencies in the work of Contractor and will report any observed deficiencies to the Owner.
9. Review Contractor shop drawings and other project related submittals. Notify the Contractor of non-conforming work observed during site visits. Review quality related documents provided by the Contractor such as test reports, equipment installation reports or other documentation required by the construction contract documents.
10. Interpret the drawings and specifications for the Owner and Contractor. Investigations, analyses, and studies requested by the Contractor and approved by the Owner, for substitutions of equipment and/or materials or deviations from the drawings and specifications are an additional service.
11. Prepare documentation for contract modifications required to implement modifications in the design of the project. Receive and evaluate notices of Contractor claims and make recommendations to the Owner on the merit and value of the claim on the basis of information submitted by the Contractor or available in project documentation.
12. Revise the construction drawings in accordance with the information furnished by Contractor reflecting changes in the project made during construction. One (1) set of mylar reproducible prints of "Record Drawings" and electronic files shall be provided by GAI to the Owner for each set of construction drawings.

ARTICLE II

ADDITIONAL SERVICES (DESIGN PHASE):

A. Design Surveying

1. Establish horizontal and vertical control for the project from existing TxDOT control monuments. Establish adequate control points and benchmarks for construction of the project. Cross-tie all survey control to City of Denton benchmarks.
2. Provide a topographic survey of the project. The topographic survey shall extend the entire length of Bonnie Brae Street from IH-35E to US 377. The survey corridor shall be 200' wide, extending 100' on each side of the proposed roadway centerline, and shall extend a minimum of 200' along all intersecting streets. The survey shall

consist of roadway cross sections taken at 50' intervals, locating all existing features such as water valves (including top of nut elevation), curb & gutter, asphalt, driveways, culverts, headwalls, mailboxes, geotechnical boring locations, sanitary and storm sewer manholes (including invert elevations with flowlines, sizes and material types), trees with 6" or greater diameter at 4' height, tops and toes of slopes, visible utilities, utilities marked by others, power poles, telephone risers, and all other visible features.

3. Provide additional topographic surveying at five creek crossings for hydraulic modeling. The limits of the survey will extend 500' upstream and downstream from the existing crossings. Trees will not be surveyed in these areas.

B. USACE 404 Permitting

1. Perform Section 404 Jurisdictional Determination based on USACE guidelines.
2. Work with USACE to resolve impacts and potential mitigation.
3. Prepare 404 Permit Application and submit to USACE.
4. Coordinate with USACE through the permit process.

C. Hydraulic Analysis Services - The drainage design services for this project are broken up into two phases: preliminary and final design. Preliminary design includes a drainage study and alternatives analysis for all cross-drainage associated with the roadway, including bridges and culverts. Final design includes preparations of plans, specifications, and estimates for the hydraulic design of bridges and culverts. Bridge scour analysis will be performed as part of the final design services.

1. Preliminary Phase

GAI shall perform hydrologic and hydraulic computations to develop preliminary sizing of the bridges and/or drainage structures for each of the creek crossings. The deliverable of this phase shall be a drainage study to serve as the basis for final design of the drainage structures. As part of this phase, GAI shall perform the following tasks:

- a) Meetings - GAI shall plan, coordinate, attend, facilitate, and document meetings, as required, to discuss and coordinate various aspects of the project. Up to three (3) meetings are anticipated as part of the preliminary phase:
 - (i) One (1) drainage study kickoff meeting with Owner staff to discuss the drainage study
 - (ii) One (1) drainage study interim review meeting to discuss interim results and select alternatives for bridge and culvert design sizes.
 - (iii) One (1) drainage study final meeting to present results of drainage study.

- b) Data Collection – In addition to data provided by Owner, GAI will research and obtain pertinent information necessary for drainage study including the following:
 - (i) Perform a site visit to verify location and condition of existing drainage structures and observe local drainage patterns of the project alignment.
 - (ii) Obtain effective hydrologic and hydraulic models from FEMA and Owner for each of the creek crossings.
 - (iii) Existing drainage masterplans and hydraulic models as available from the Owner.
 - (iv) USDA soils information, land use maps, and other GIS data necessary for hydrologic computations.
 - (v) Digital aerial topographic and photographic information, latest edition available.
 - (vi) Coordinate with Surveyor to obtain final layout of surveyed cross-sections for hydraulic modeling.
- c) Hydrology and Hydraulics – GAI shall develop existing and proposed conditions hydrologic and hydraulic models of the existing conditions drainage structures, as needed. GAI will utilize existing hydrologic studies for fully developed watershed conditions as available and applicable.
 - (i) All calculations shall follow at a minimum the standards and procedures as outlined in the Denton Drainage Criteria Manual dated February 2002.
 - (ii) Roadway geometry including horizontal and vertical alignment will be based on schematic developed by GAI.
 - (iii) Create fully developed hydrology models based on the current City of Denton land use projections using HEC-HMS for drainage areas greater than 200 acres. Peak discharges for drainage areas less than 200 acres will be calculated using the Rational Method.
 - (iv) Create existing conditions hydraulic models using HEC-RAS and Culvertmaster for existing culvert and bridge crossings along the project alignment.
 - (v) Create proposed conditions hydraulic models for proposed bridges. Up to three (3) alternative configurations for each bridge will be modeled. The initial goal of the bridge configurations will be to develop no-rise, 100-year bridges, for fully urbanized watershed. Other alternatives will be investigated as necessary to meet other design or budgetary constraints.
 - (vi) Create proposed conditions hydraulic models for culverts. Up to two (2) alternative configurations for each culvert will be modeled.

- (vii) Conceptual OPCC – Determine concept level (order of magnitude) probable construction cost for each alternative considered. The OPCC is to be utilized as a tool in selecting proposed size and design alternatives for final design.
- d) Drainage Study Report - Document results of drainage study in bound report. The drainage study will serve as basis for final design of bridges and culverts.
 - (i) Provide four (4) bound copies of draft report to the Owner for review. Electronic copy (PDF) of report and digital models will also be submitted.
 - (ii) Incorporate Owner comments into final report and provide four (4) bound copies of final report to the Owner for review. Electronic copy (PDF) of report and digital models will also be submitted.
- 2. Preparation of CLOMRs for two bridges.
 - (1) Submit two (2) copies of Draft CLOMR to Owner for review.
 - (2) Incorporate comments and submit CLOMR to FEMA.
 - (3) Coordinate with FEMA as necessary to acquire approval of CLOMRs.

3. Preparation of LOMRs for two bridges.

This phase shall include the preparation of two (2) LOMRs to FEMA. If FEMA requests more than two (2) LOMRs, the additional LOMR submittals shall be considered Extra Services. Review fees of any kind from city, state, federal or other sources will be paid by the Owner and are not included in this proposal. This scope assumes that the project is constructed to match the CLOMR and final construction plans, so if substantial changes occur during construction, additional services could be required to achieve the original intent of the CLOMR.

- 1. As-Built Survey - Upon construction completion of the project, necessary field surveys will be completed for as-built hydraulic model verification.
- 2. Hydraulic Models – Final hydraulic models will be prepared for each stream crossing based on the as-built field survey.

LOMR Report and FEMA Submittal – Prepare two (2) draft copies of each FEMA submittal for review by Owner, address Owner comments, and submit one (1) final copy to FEMA and one (1) final copy to Owner for each LOMR. Coordinate with FEMA as necessary to acquire approval of LOMRs.

D. Traffic Signals

- 1. Prepare permanent traffic signal plans for I.H. 35, F.M. 1515, Corbin Road, Willowood, Roselawn, Vintage, and U.S. 377 for a total of seven (7) intersections. The construction plans shall include:

- a) Signal Layouts
- b) Phase Diagrams
- c) Wiring Diagrams
- d) Quantities and Charts
- e) Standard Details
- f) Specifications

2. Temporary traffic signals shall be provided for the I.H. 35 frontage road (2 locations) and F.M. 1515 (3 total installations). The construction plans shall include:

- a) Temporary signal layouts
- b) Quantities and Charts
- c) Standard Details

E. Geotechnical Engineering and Pavement Design (LandTec/Alpha)

1. Bridge Borings for Roark Branch and Hickory Creek: Drill 14 borings to depths of approximately 50 to 75 feet for foundation bearing, assuming drilled shafts will support the bridge. (Estimated 920 linear feet of drilling).
2. Retaining Wall Borings: Based on 4000 linear feet of wall, drill 20 borings to depths of approximately 40 feet. (Estimate 800 linear feet of drilling).
3. Pavement and Utility Borings: Drill 20 borings to depths of 20 feet. (Estimate 400 linear feet of drilling). Borings from bridge and retaining wall will supplement the pavement and utility borings.
4. Intersection Improvements at US 377, FM 1513, Allred Road, Hamilton Street, Vintage Blvd. and Corbin Road: Drill 5 borings to depths of 20 feet. (Estimate 100 linear feet of drilling).
5. Obtain soil samples and perform Texas Cone Penetrometer (TCP) and Split Spoon Tests (SPT) as appropriate for the soils encountered.
6. Perform Dynamic Cone Penetrometer (DCP) tests to evaluate pavement subgrade strength and develop California Bearing Ratio (CBR) values; Effective Modulus of Subgrade Reaction, k , values, and, resilient modulus values for the anticipated pavement subgrade soils.
7. Observe for groundwater seepage during drilling and record level.
8. Backfill boreholes with cuttings upon completion (not grouted).
9. Coordinate the clearance of underground utility locations in accordance with the Texas 811 One Call requirement and as-built information obtained by prime as part of the project at a minimum.

10. Coordinate with the local municipality while drilling on or adjacent to public roads, including traffic control and barricades as necessary.
11. Selected laboratory testing will be conducted on samples that are considered to be reasonably representative of the materials obtained from the field exploration. The tests will evaluate and classify the soils, identify subsurface site characteristics, and provide data for analysis. The tests include
 - a) Soil classification tests including Atterberg limits (liquid and plastic limits) and Sieve Analysis tests
 - b) Unit dry weight and moisture content tests
 - c) Unconfined Compressive Strength tests on soil and rock
 - d) Unconsolidated Undrained (UU) Triaxial strength tests
 - e) Direct Shear and/or Consolidated Undrained Strength tests
 - f) Consolidation tests
 - g) Optimum Moisture-Density Curves (Standard and/or Modified Proctors)
 - h) Swell tests
 - i) Atterberg Limits / pH series tests on pavement subgrade soils with one or more stabilization additives including Lime, Cement and Cem-Lime[®].
 - j) Soluble Sulfate tests (subgrade soils upper 4 feet)
12. An engineering analysis and evaluation of the field and laboratory data will be performed for the project, based on available project concepts. Information to be provided is as follows:
 - a) Plan of borings illustrating the approximate location of each boring and scale to which the drawing is made
 - b) A log of each boring indicating the boring number, location (northing, easting and elevation as provided by Graham Associates, Inc.), depth of strata, soil description, field penetration tests including Standard Penetration tests (SPT's) and/or Texas Cone Penetrometer (TCP) , laboratory tests, and groundwater information
 - c) Description of the field exploration and laboratory testing program
 - d) Laboratory test results and analysis of results

- e) Discussion of subsurface soil and groundwater conditions
- f) Recommendations for the bridge foundation type, depth, allowable loading and side shear values
- g) Recommendations for the retaining wall lateral earth pressures and drainage requirements
- h) Recommendations for roadway and embankment fill material including soil type, compaction and moisture content requirements, placement and testing during construction
- i) Recommendations for removal and/or improvement of soft soils (if encountered) within the floodway where embankments will be constructed
- j) Provide subgrade and pavement design for Bonnie Brae Street and sections of the intersecting streets using field and laboratory test data, traffic volume and desired pavement design life. Pavement design analysis will be performed using the AASHTO pavement design procedure, specifically using WinPAS software and will match the design procedures used for the City of Fort Worth.
- k) Ten (10) copies of the geotechnical engineering report will be provided to the design team along with PDF and CD versions.

F. Subsurface Utility Engineering (Gorron dona and Associates)

1. SUE work required for this project will be conducted in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). The quality levels used on this project are as follows:
 - a. Quality Level B – Two-dimensional (x,y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as “designating” this quality level provides the approximate horizontal position of subsurface utilities within approximately one foot.
 - b. Quality Level A – Also known as “locating”, this quality level provides precise three dimensional (x,y,z) information at critical locations by exposing specific utilities. Non-destructive vacuum excavation equipment is used to expose the utilities at specific points which are then tied down by survey.
2. The work areas include the intersection with US Hwy 377 (including the UPRR crossing), the intersection with FM 2449, the section of FM 1515 to IH 35E, and the KCS Railroad overpass area. SUE drawings signed and sealed by a Texas Professional Engineer will be provided to be included in the Graham Associates plans for TxDOT and railroad submittals in these four (4) areas.

The four specific work areas for QL “B” SUE are described as follows:

- a) Intersection of US 377 / UP RR:
 - along proposed Bonnie Brae St from 200’ west of US 377 to 200’ east of UP RR,
 - within the US 377 right of way 800’ in each direction from propose Bonnie Brae centerline and
 - within the UPRR right of way a distance of 150’ in each direction.
- b) Intersection of KCS RR:
 - along KCS right of way a distance of 500’ in each direction from Bonnie Brae CL.
- c) Intersection of FM 1515 (Airport Rd) IH 35 E:
 - along proposed Bonnie Brae right of way from station 207+00 to 215+00 (south bound IH 35 frontage road),
 - Crossing IH 35 E along existing bridge, and
 - along the parkway along the north bound frontage from Bonnie Brae to the south 500’.

G. Environmental Services (Blanton & Associates & GAI)

The following environmental services shall be performed in support of the Bonnie Brae Street Improvements Project:

1. Compile existing data and perform an initial desktop analysis of environmental conditions of the project area. Prepare maps and other data necessary for site visit.
2. Conduct site visit. Verify and characterize the City's mapped Environmentally Sensitive Areas (ESAs) in the area affected by the proposed project. Perform a preliminary jurisdictional determination to identify and delineate boundaries of waters of the U.S., including wetlands. Make note of areas of potential environmental contamination within the project area that may warrant further investigation. Evaluate the project area for federally listed threatened or endangered species habitat.
3. Prepare a draft of the North Central Texas Council of Government's (NCTCOG) Environmental Review Checklist for the Owner's review and comment. Incorporate comments and submit the revised checklist to the NCTCOG through the Owner for review and comment.
4. Coordinate with cultural resources sub-consultant. Review and provide comments on draft cultural resources report.
5. Coordination with NCTCOG. This task would include answering questions and providing additional information through the Owner if requested by the reviewing agencies. This task assumes a maximum of three requests for clarification and information. Contested application proceedings and requests for multiple site visits are not included in this task.
6. If the preliminary jurisdictional determination results indicate that the impact to the waters of the U.S. exceeds 0.1 acre but is less than 0.5 acre, or if a jurisdictional wetland is identified within the affected area, then GAI will prepare a draft preconstruction notification (PCN) for coverage of road crossings. Submit the draft PCN to the Owner for review and comment. Incorporate comments and submit the revised PCN to the U.S. Army Corps of Engineers (USACE) for verification. This task assumes that any required compensatory mitigation for impacts to waters of the U.S. would be satisfied by the Owner's purchase of mitigation bank credits. Preparation of a detailed mitigation plan is not included in this task.
7. Historical Land Use Review – Perform an investigation into prior ownership and past land uses on the subject property. GAI will attempt to identify obvious uses of the subject property from the present back to the property's first developed use, or back to 1940, whichever is earlier. To accomplish this task, GAI will review the following records (if available):
 - (i) Interviews with City representatives and property owners/tenants.

- (ii) Historical aerial photography.
 - (iii) City directory abstracts.
 - (iv) Sanborn fire insurance maps.
 - (v) Recorded environmental easements or liens on the subject property.
8. Regulatory Agency Records Review – GAI will review information found in federal and state regulatory records for the subject property, including records related to environmental-related permits, notices-of-violation, and incidents involving use, disposal, or accidental release of hazardous substances, petroleum products, or other waste materials. Local records, if available, related to the subject property will also be reviewed for indications of environmental concern.
 9. Site Reconnaissance Visit – GAI will perform a site reconnaissance visit to the subject property. Existing environmental conditions will be documented on the site. GAI will look for potential indicators of environmental concerns such as stained soils or other surfaces, stressed vegetation, exposed piping, and evidence of improper use or disposal of regulated substances. GAI will document the condition of each property using photographs. Copies of photographs will be included in the report.
 10. Report Preparation – Following the completion of Tasks a) through b), a report will be prepared for the subject property documenting our findings. The report will contain a narrative of our findings, recommendations for additional environmental investigations, as needed, and copies of all data obtained relevant to each subject property. The report will contain appropriate maps, figures, and photographs.
 11. Conduct an archaeological evaluation and submit a Request for State Historic Preservation Officer (SHPO) Consultation Form to the Texas Historical Commission (THC). In addition to the information available through online databases, a review of projects conducted by AR Consultants (ARC) and other contract archaeological firms in or near the project area as well as information that may not be available from Texas Archeological Studies Association (TASA) but will be available from the University of North Texas will be synthesized in the evaluation. Additionally, an employee of ARC will visit the project area to take photographs and conduct a windshield survey of the study area. A letter report is to be provided to the Owner that presents the findings of the research and recommendations regarding the archaeological potential for the project and how to proceed. Once the Owner comments on the letter report, ARC will submit a letter report to the THC for their 30-day review period. The evaluation will include a database search of the following resources: Texas Archaeological Site Atlas, historic maps, USGS maps, aerial photographs, geological maps, county soil surveys, Denton County Appraisal District.
 12. If a survey is required, secure an archaeological survey permit from the Texas Historical Commission (THC). This will require obtaining the signature of an official with the City of Denton.

13. Conduct a comprehensive cultural resources pedestrian survey of the proposed roadway. Besides the systematic survey of the proposed route, it is assumed that 75 or more shovel tests will be excavated in order to meet the guidelines for pedestrian surveys published by the Texas Historical Commission. Each shovel test will be 30 cm in diameter and will be excavated in 10 cm levels. Soil from the shovel tests will be passed through ¼" mesh shaker screens. If the clay content of the sample is too high, the soils will be manually broken and inspected.

Due to the depth that the roadway will be excavated and the shallow depth of the A-horizon above the pre-Holocene sediments that are described by the Soil Conservation Service, it is not expected that mechanical trenching will be necessary.

14. Site boundaries, i.e. the limits of any archaeological sites or structures that are recognized during survey and testing will be defined on the horizontal plane and deposit depth will also be defined as necessary.
15. Perform detailed artifact analysis if artifacts are recovered and then prepare a draft technical report.
16. Records and artifacts will be prepared for curation at the Texas Archeological Research Laboratory (TARL) at The University of Texas. The cost of records curation is included in the proposed cost, but if artifacts are recovered, their preparation for curation and the cost of perpetual curation will be negotiated with TARL and will be an additional services item.
17. The draft written report will be submitted to the Owner. After comments have been addressed, it will be submitted to the THC and Corps of Engineers (COE) for review and comment. The report will meet the standards for cultural resource reports prepared by the Council of Texas Archeologists (n.d.) and adopted by the THC. The THC will serve as the official reviewer for the COE, but a copy of the draft report and cover letter will be submitted to the COE for their review.
18. Revisions of the draft report will be prepared after it has been reviewed and review comments have been addressed. Once a final draft has been prepared, it will be resubmitted to the Owner for review and then again to the THC and COE.
19. Curation of records and artifacts will be completed in order to satisfy the permit requirements.
20. The final technical report will be printed and the necessary copies submitted to the Owner, the COE, and the THC. One copy of the final report and an archival quality CD will be submitted to the THC as required by the permit and five copies of the final technical report and an archival quality CD with the report will be delivered to the Owner.

H. Additional Service Construction Administration

The Scope of Services for Full Time Resident Representation services includes (1) one full time inspector (based on 40 hours per week) for construction duration up to 30 months.

A. GAI shall have a Resident Project Representative on the Site. The duties, responsibilities and the limitations of authority of the Resident Project Representative, and designated assistants, are as follows:

1. Resident Project Representative is GAI's agent at the site, will act as directed by and under the supervision of GAI, and will confer with GAI regarding Resident Project Representative's actions. Resident Project Representative's dealings in matters pertaining to the on-site Work shall in general be with GAI and contractor, keeping Owner advised as necessary. Resident Project Representative's dealings with subcontractors shall only be through or with full knowledge and approval of contractor. Resident Project Representative shall generally communicate with Owner with the knowledge of and under the direction of GAI.

B. Duties and Responsibilities of Resident Project Representative:

1. Schedules: Review the progress schedule, schedule of shop drawing submittals and schedules of values prepared by contractor and consult with GAI concerning acceptability.
2. Conferences and Meetings: Attend meetings with contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as GAI's liaison with contractor, working principally through contractor's superintendent and assist in understanding the intent of Contract Documents; and assist GAI in serving as Owner's liaison with contractor when contractor's operations affect Owner's on-site operations.
 - b. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
4. Shop Drawings and Samples:
 - a. Record date of receipt of shop drawings and samples.
 - b. Receive samples which are furnished at the site by contractor, and notify GAI of availability of samples for examination.

- c. Advise GAI and contractor of the commencement of any Work requiring a shop drawing or sample if the submittal has not been approved by GAI.
- 5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to determine if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to GAI whenever Resident Project Representative believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise GAI of Work the Resident Project Representative believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to GAI.
- 6. Interpretation of Contract Documents: Report to GAI when clarifications and interpretations of the Contract Documents are needed and transmit to contractor clarifications and interpretations as issued by GAI.
- 7. Request for Revisions: Consider and evaluate contractor's suggestions for revisions to Drawings or Specifications and report with Resident Project Representative's recommendations to GAI. Transmit to contractor in writing decisions as issued by GAI.
- 8. Records:
 - a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents, including all Work Change Directives, Addenda, Change Orders, Field Orders, Written Amendments, additional Drawings issued subsequent to the execution of the Contract, GAI's clarifications and interpretations of the Contract Documents, progress reports, submittals and correspondence received from and delivered to contractor and other Project related documents.

9. Reports:

- a. Furnish to GAI periodic reports as required of progress of the work and of contractor's compliance with the progress schedule and schedule of Shop Drawings and Sample submittals.
 - b. Consult with GAI in advance of scheduled major tests, inspections or start of important phases of the Work.
 - c. Draft proposed Written Amendments, Change Orders and Work Change Directives, obtaining backup material from contractor and recommend to GAI Written Amendments, Change Orders, Work Change Directives, and Field Orders.
 - d. Report immediately to GAI and Owner the occurrence of any accident.
10. Payment Requests: Review Applications for Payment with contractor for compliance with the established procedure for their submission and forward with recommendations to Owner, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment at the Site but not incorporated in the Work.
11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to GAI for review and forwarding to Owner prior to final payment for the Work.
12. Completion:
- a. Before GAI issues a Certificate of Substantial Completion, submit to contractor a list of observed items requiring completion or correction.
 - b. Observe whether contractor has performed inspections required by laws or regulations, ordinances, codes or order applicable to the Work, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
 - c. Conduct a final inspection in the company of GAI, Owner and contractor and prepare a final list of items to be completed or corrected.
 - d. Observe whether all items on final list have been completed or corrected and make recommendations to GAI concerning acceptance.

13. Limitations of Authority of Resident Project Representative:

- a. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by GAI.
- b. Shall not exceed limitations of GAI's authority as set forth in Agreement or the Contract Documents.
- c. Shall not undertake any of the responsibilities of contractor, subcontractor, suppliers, or contractor's superintendent.
- d. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
- e. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work or any activities or operations of Owner or contractor.
- f. Shall not accept shop drawing or sample submittals from anyone other than the contractor.
- g. Shall not participate in specialized field or laboratory tests or inspections conducted by others, except as specifically authorized by GAI.

14. GAI shall provide the following Public Involvement services:

- a. GAI will prepare a project web site that may be accessed through the City of Denton website. The site will include information about the project, project schedule, and comment area. Content will be discussed with the City PM prior to posting.
- b. GAI will attend up to three (3) public meetings at the concept, design and construction phases of the project. GAI will provide project exhibits and prepare presentations for each meeting. This scope assumes that the Owner will pay for advertising and mailings associated with each public meeting.

I. Right-of-Way Services (Crossland Acquisitions)

1. Pre-Acquisition Services:

- a) Hire a title company to provide preliminary ownership and easement information.
- b) Work with surveyor in development of right of way maps and legal descriptions of needed property rights.
- c) Provide detailed right of way cost estimates on a parcel by parcel basis.
- d) Assist in preparing and obtaining any Rights of Entry necessary for surveying, geotechnical investigations and environmental services.

2. Title Services:

- a) Review preliminary title commitment or preliminary title search information provided by the title company.

- b) Secure title commitments and updates in accordance with insurance rules and requirements for parcel payment submissions.
- c) Secure title insurance for all parcels acquired, insuring acceptable title in the name of the City of Denton. Written approval by the City of Denton will be required for any exceptions to coverage.
- d) Attend closings and provide closing services in conjunction with Title Company.
- e) Record all original instruments immediately after closing at the respective County Clerk's Office

3. Initial Appraisal:

- a) Appraiser must be approved by the City of Denton.
- b) Secure written permission from the owner to enter the property from which land is to be acquired. If Agent, after diligent effort, is unable to secure the necessary letter of permission from the property owner, a waiver must be obtained, in writing from the City of Denton. Maintain permission letters with appraisal reports.
- c) Prepare and conduct personal pre-appraisal contact with interest owner(s) for each parcel.
- d) Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
- e) Prepare complete appraisal report for each parcel to be acquired utilizing a format approved by the City of Denton. These reports shall conform to the City of Denton policies and procedures along with the Uniform Standards of Professional Appraisal Practice.
- f) As necessary, prepare written notification to the City of Denton of any environmental concerns within the needed right of way to be acquired which could require remediation.
- g) All completed appraisals will be administratively reviewed and approved by the City of Denton.
- h) As necessary, the appraiser will appear and or testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by the City of Denton.

4. Right of Entry:

- a) Prepare Right of Entry packets to include Landowner Bill of Rights, maps and paperwork to be executed.
- b) Mail merge ROE letters and labels for envelopes and file folders. The agents will prepare and stuff envelopes for out of town owners or owners who have indicated that they want to receive all of their initial information via mail.
- c) The agent will initiate negotiator and contact logs and attend landowner meetings for ROE documents. The agent will research additional contact information for nonresponsive landowners.

5. Negotiation Services:

- a) Analyze appraisal reports and confirm approved value prior to making offer for each parcel.
- b) Analyze preliminary title report to determine potential title problems and propose methods to cure title deficiencies.
- c) Prepare the initial offer letter and any other documents required or requested by the City of Denton in a form acceptable to the City of Denton.
- d) Contact each property owner or owner's designated representative and present the written offer in person where practical. When owners do not wish to have offers delivered in person, they will be mailed via certified mail with return receipt for documentation of delivery/receipt. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.
- e) Provide a copy of the appraisal report for the subject property exclusively to the property owner or authorized representative at the time of the offer. Maintain original signed Receipt of Appraisal.
- f) Respond to property owner inquiries verbally and/or in writing within two business days.
- g) Prepare a separate negotiator contact report for each parcel file for each contact.
- h) Maintain parcel files of original documentation related to the purchase of the real property or property interests.
- i) Present counteroffers in a form as directed by the City of Denton. Transmit any written counteroffer from property owners including supporting documentation, and Agent's recommendation with regard to the counteroffer.
- j) Prepare final offer letter as necessary.
- k) Appear and provide Expert Witness testimony when requested.

6. Relocation Services:

- a) Notify all property owners and potential displacees of eligibility for relocation assistance and provide them with a Relocation Assistance Brochure at time of initial contact. If possible, advise displacee of preliminary relocation benefits at this time.
- b) Contact and provide relocation assistance to property owners and tenants affected by acquisition of right of way.
- c) For residential relocations; locate, evaluate, and maintain files on comparable available housing.
- d) Calculate replacement housing supplement benefits.
- e) Compute and submit request for relocation housing/rental supplement to the City of Denton along with supporting documentation.
- f) Provide 90-day notice to vacate simultaneously with the delivery of the relocation benefits package.
- g) Sixty days later or upon acquisition of the parcel, whichever occurs later, issue a 30 day letter.
- h) Notify the City of Denton immediately if displacee does not move after 30-day notice expires.

- i) Perform a decent, safe, and sanitary inspection of the replacement housing in accordance with the City of Denton.
- j) Prepare moving plan with appropriate photos and sketches along with inventory of personal property to be moved for non-residential moves.
- k) Request moving estimates from moving companies as needed.
- l) Coordinate moves with displaced homeowners, business owners, and tenants and with moving companies in accordance with the City of Denton procedures.
- m) Maintain relocation contact logs.
- n) Attend closings on replacement property if requested by any party involved, and assure supplemental payment is properly distributed.
- o) Process and compute increased interest payments as required.
- p) Relocation agent shall be available for any appeals or hearings.
- q) Prepare all relocation payment claim submissions for all displacees on parcel.
- r) Deliver payments in accordance with the City of Denton guidelines.

7. Condemnation Support:

- a) Pre-Hearing Support
 - (i) Upon receipt of a copy of the final offer, request an updated title commitment for Eminent Domain from the Title Company.
 - (ii) Prepare a condemnation package as directed by the City of Denton and deliver the package to the City of Denton's designee or legal counsel.
 - (iii) Upon notification from the City of Denton request the update of appraisal.
 - (iv) Upon receipt of condemnation packet documents prepared by Counsel for the City of Denton, Agent will file the original petition with the County Court at Law or other appropriate Court for a cause number to be assigned.
 - (v) File the Lis Pendens including the cause number with the County Clerk's Office.
 - (vi) Upon assignment of a court, file the Order Appointing Commissioners with the judge retaining a copy of the Order for the files.
 - (vii) Following appointment of Commissioners by the judge, secure the following documents: Oath of Commissioners signed by the Commissioners, Order Setting Hearing, and 2 copies of the Notice of Hearing signed by the Commissioners.
 - (viii) File all originals with the court and send copies marked "copy" to Counsel for the City of Denton.
 - (ix) Send a copy of the petition to the Title Company so that they can assure all required parties were joined and that no changes in title have occurred.
 - (x) Set the Commissioners Hearing after the updated appraisal has been submitted, if there is no change in value. If there is an increase in value, upon approval by City of Denton make a revised final offer and submit a copy of the revised final offer letter.
 - (xi) Reserve a room for the hearing.

- (xii) Coordinate the hearing date with Counsel for the City of Denton, the Appraiser, the Engineering witness, the three Special Commissioners, the court reporter and any other parties designated by the City of Denton.
 - (xiii) Coordinate a pre-hearing conference if required by Counsel for the City of Denton.
 - (xiv) After the hearing is set, serve Notices of Hearing to the indicated parties at least 11 days prior to the Commissioner's hearing. If it is necessary to join the Federal Government, be advised that they must be served not later than 60 days prior to the date of the hearing.
 - (xv) Once the notices have been served, file the original notices with the court and send copies stamped "copy" to Counsel for the City of Denton.
 - (xvi) Send a reminder letter to all parties.
- b) Post-Hearing Support
- (i) Obtain the signatures of Commissioners and file with the court for the judge's signatures within two days the Hearing.
 - (ii) Obtain and distribute to Counsel for the City of Denton certified copies of the award.
 - (iii) File payment of the award in the registry of the court. File a Notice of Deposit with the court and send certified copies to each defendant notifying them of the date of the deposit. The Date of Deposit is the Date of Take.
 - (iv) Take photographs of the interest to be acquired on the day of deposit.
 - (v) Send written notices of the date of deposit to all interested parties.
 - (vi) Appear as Expert Witness as requested.

8. Project Administration

- a) Maintain current status reports of all parcel and project activities and provide monthly or as requested to GAI and the City of Denton.
- b) Participate in project review meetings as determined by GAI and the City of Denton.
- c) Provide copies of all incoming and outgoing correspondence as generated if requested.
- d) Maintain copies of all correspondence and contacts with property owners.

J. Geotechnical Materials and Construction Testing (Landtec & Alpha Testing)

Testing shall be conducted based on the latest requirements of the City of Denton and the North Central Texas Council of Governments.

Testing shall be performed for the following:

- 1. Site Preparation, Filling, Back Filling
- 2. Utilities
- 3. Mechanical Lime Stabilization

4. Pier Installation Monitoring
5. Concrete Testing
6. Hot Mix Asphalt Concrete Testing

K. Traffic Engineering (Freese and Nichols)

Part 1. Preliminary Schematic Layouts for alternative to a T-intersection at the intersection of Airport Road (F.M. 1515) at Bonnie Brae.

Geometric layout of the alternative is necessary to confirm that the proposed loop ramp and directional roadways can be realistically configured, horizontally and vertically, within the current TxDOT design for the IH 35E/IH 35W interchange. The alternative design concept will need to be promoted to TxDOT as a viable and desirable alternative.

Task 1.1. Provide sketch diagrams of the proposed layout of a “Directional Roadway” Alternative, indicating approximate dimensions for turn bays and any loop ramps or weaving sections.

Task 1.2. Meet up to 5 times and review provided materials as needed to develop and refine the preliminary design of the Bonnie Brae Street/Airport Road Interchange.

Task 1.3. Meet up to two (2) times with the Design Team and TxDOT to try to get TxDOT’s concurrence with the preliminary interchange as part of future I-35W improvements and to fund its design and construction.

Part 2. Alternatives Analysis.

Traffic operational analysis will need to be conducted on the proposed alternative intersection and the current proposed TxDOT design to show the deficient traffic operations during peak hours and during special events at the new stadium for the current TxDOT design configuration. The analysis will need to use complex traffic models that can simulate the complex arrangement of connecting traffic movements at sufficient detail to assess the delays to each major movement of the proposed alternative.

Upon approval of Part 1 by the City of Denton, analyze the following two alternative configurations for the intersecting roadways of Bonnie Brae and Airport Road (F.M. 1515) considering options for:

- T-intersection of Airport at Bonnie Brae, and
- “directional roadway” interchange providing a directional ramp from NB IH35W service road to WB Airport Road and continuous flow-type intersection of Airport Road with Bonnie Brae Street.

Consideration must be given in both alternatives to the potential need for “changeable flow” lanes on Bonnie Brae Street to accommodate event traffic.

Task 2.1. Develop design traffic volumes for analysis. Using TxDOT-developed ADT volumes, information from the Traffic Impact Assessment for the UNT new stadium, and current traffic data generate peak hour volumes for use in the operational analysis of typical weekday operations and a special event on a Saturday at the new stadium. Prepare

one-line diagrams of directional design volumes and submit to City of Denton and TxDOT for review and approval.

Task 2.2. Request review comments on the sketch diagrams of the alternatives and obtain concurrence on up to four operational configurations for analysis and on the proposed evaluation methodology and criteria. Develop operational analysis of each alternative using computerized traffic modeling. Develop models for the AM Peak Hour, PM Peak Hour and for one hour of an event. Provide avi files of the animation of traffic simulation of the alternatives. Summarize the operational characteristics of the alternatives.

Task 2.3. Prepare a draft report of findings and submit one copy each City of Denton and TxDOT, including a DVD with avi files of the simulation of the alternatives.

Task 2.4. Meet with City of Denton and TxDOT to review the findings of the analysis.

Task 2.5. Modify analyses, evaluations and summary of findings based upon review comments from City of Denton and TxDOT. Document the comments and the response to the comments.

Task 2.6. Prepare a final report of findings and submit one copy each to City of Denton and TxDOT, including a DVD with avi files of the alternatives.

ARTICLE III

EXTRA SERVICES: Extra Services to be performed by GAI, if specifically authorized in writing by Owner, which are not included in the above-described Basic and Additional Services, are described as follows:

- A. Phase II Environmental Site Assessment services in accordance with ASTM standards to identify and investigate the nature and extent of potential environmental contamination.
- B. Tree survey to comply with City of Denton tree protection ordinance.
- C. Field layouts or the furnishing of construction line and grade surveys.
- D. Legal services for eminent domain hearings.
- E. Historical structure survey for any structure that is within the proposal right-of-way that is 50+ years old will be considered an additional service.
- F. If buried features or structures are located, it may be necessary to conduct formal National Register of Historic Places testing to satisfy the THC. The costs of in-depth NRHP testing or mitigation excavation will be considered an additional service.
- G. Documenting and Recording Historic Structures.
- H. GIS mapping services or assistance with these services.
- I. Providing additional 3D renderings or revisions to existing 3D renderings of the project design.
- J. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of GAI.
- K. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- L. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator unless such litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings or hearings are caused by actions or negligence of GAI or one of its subconsultants..
- M. 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) unless such litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with contractor(s) are caused by actions or negligence of GAI or one of its subconsultants.

- N. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT unless such litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with contractor(s) are caused by actions or negligence of GAI or one of its subconsultants. Such services, if any, shall be furnished by GAI on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT.
- O. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective construction work.
- P. Design, contract modifications, studies or analyses required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
- Q. Services required to resolve bid protests or to rebid the project for any reason, unless such rebid is directly caused by actions or negligence of the engineering professional.
- R. Visits to the site in excess of the number of trips included in Article I for periodic site visits, coordination meetings, or contract completion activities.
- S. Any services required as a result of default of the contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the contract time.
- T. Providing services after the completion of the construction phase not specifically listed in Article I.
- U. Providing basic or additional services on an accelerated time schedule. The scope of this service includes the cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.
- V. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- W. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of GAI.
- X. Providing value engineering studies or reviews of cost savings proposed by construction contractors after bids have been submitted.
- Y. Provide follow-up professional services during contractor's warranty period.

ARTICLE IV

TIME OF COMPLETION: GAI is authorized to commence work on the Project upon execution of this AGREEMENT and agrees to complete the services in accordance with the schedule shown as Exhibit 3 of this document.

If GAI's services are delayed through no fault of GAI, GAI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in Owner or regulatory reviews, delays on the flow of information to be provided to GAI, governmental approvals, etc. If the project is placed on hold by the Owner for more than six months, GAI reserves the right to negotiate additional compensation for additional services related to the delay.

ARTICLE V

RESPONSIBILITIES OF OWNER: Owner shall perform the following in a timely manner so as not to delay the services of GAI:

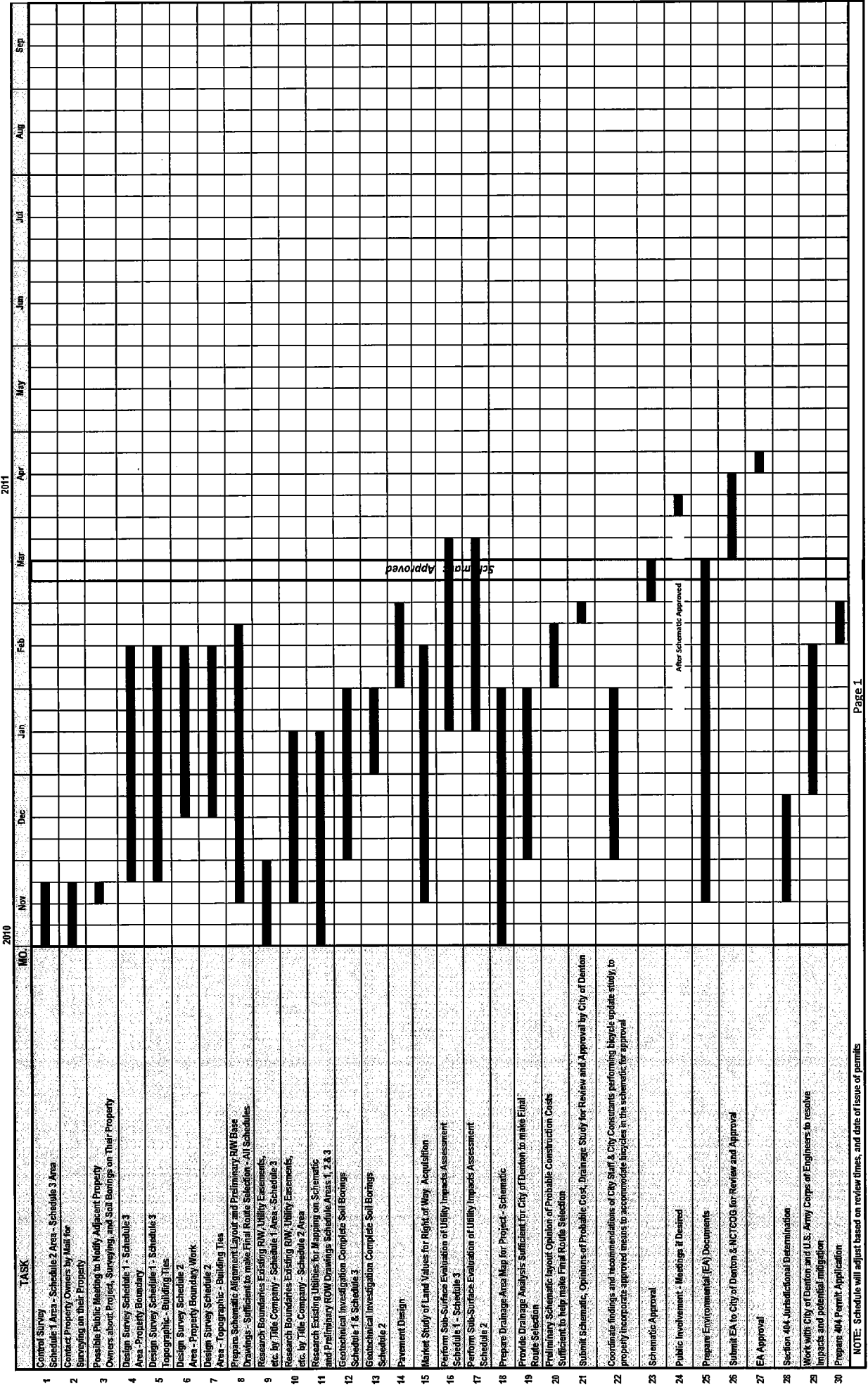
- A. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to GAI's services for the Project.
- B. Provide all criteria and full information as to Owner's requirements for the Project, including project objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the plan.
- C. Assist GAI by placing at GAI's disposal all available information pertinent to the Project including previous reports, GIS mapping and data, and any other data relative to completion of the Project.
- D. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by GAI, obtain advice of other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of GAI.
- E. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- F. Attend and take leadership role in project progress meetings and other project related meetings and attend and moderate the public meetings.
- G. Give notice to GAI whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of GAI's services, or any defect or nonconformance of the work of any contractor.
- H. Contact other departments within the City of Denton and coordinate with them to obtain record drawings of other utilities, buildings, or infrastructure as needed.

City of Denton - Bonnie Brae Road from IH 35E to US 377
 Project Schedule
 October 6, 2010

Exhibit 3

Attachment B: Vintage Blvd to SH 377

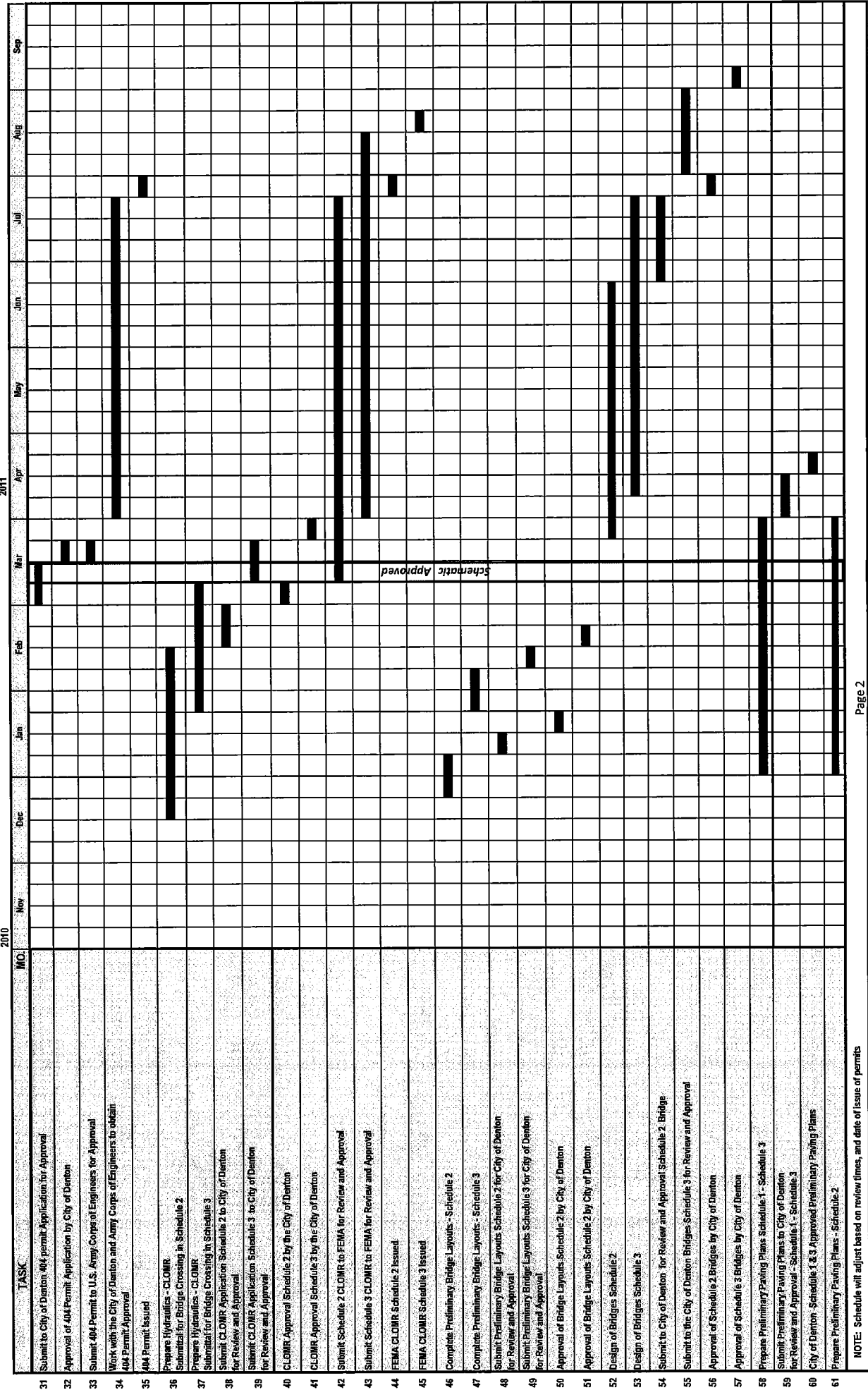
Schedule 1: IH-35E to Roselawn Drive
 Schedule 2: Roselawn Drive to Vintage Blvd



NOTE: Schedule will adjust based on review times, and date of issue of permits

City of Denton - Bonnie Brae Road from IH 35E to US 377
Project Schedule
October 6, 2010

Schedule 1: IH-35E to Roselawn Drive
Schedule 2: Roselawn Drive to Vintage Blvd



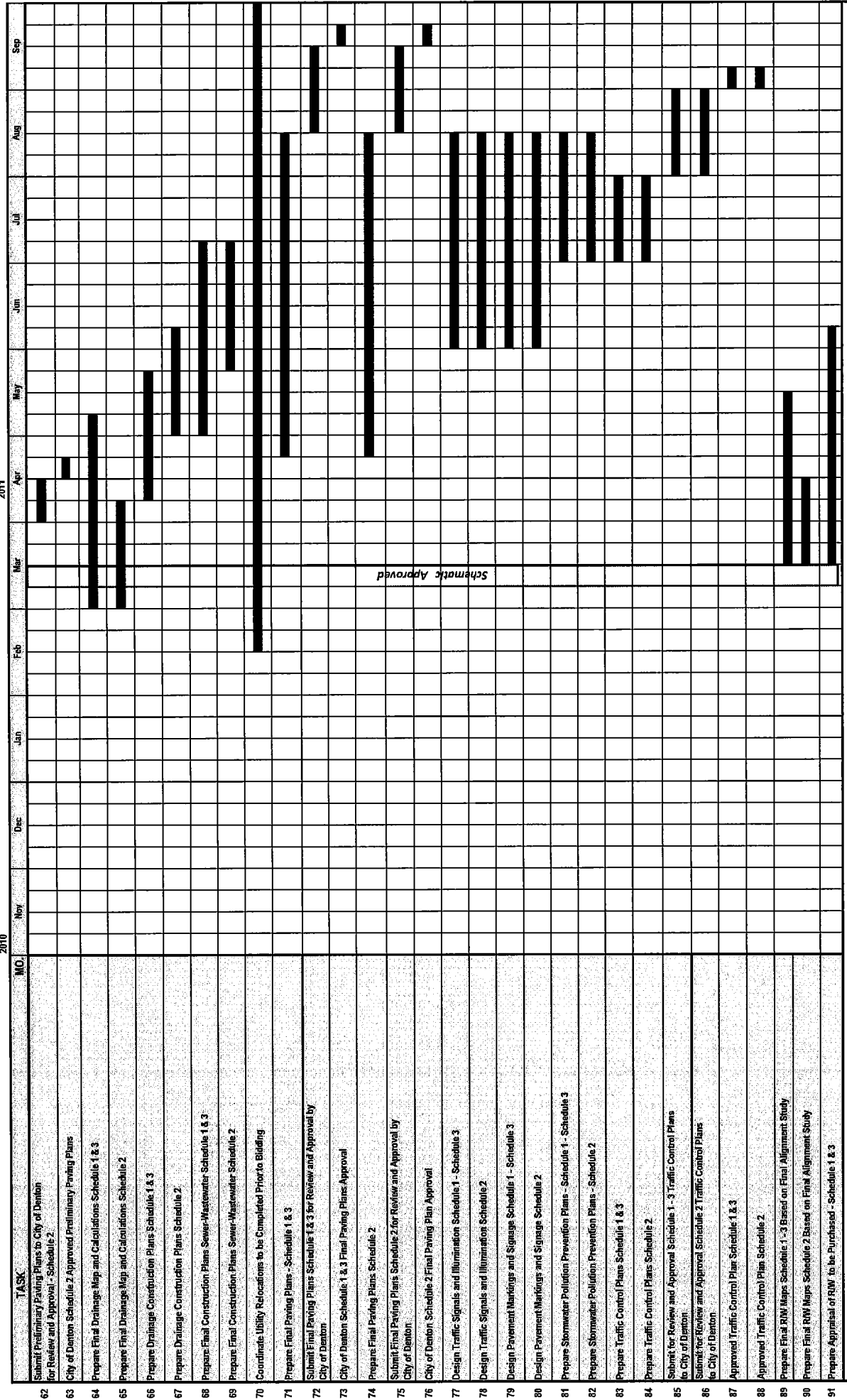
NOTE: Schedule will adjust based on review times, and date of issue of permits

City of Denton - Bonnie Brae Road from IH 35E to US 377
Project Schedule
October 6, 2010

Exhibit 3

Attachment B: Vintage Blvd to SH 377

Schedule 1: IH-35E to Roselawn Drive
Schedule 2: Roselawn Drive to Vintage Blvd



NOTE: Schedule will adjust based on review times, and date of issue of permits

City of Denton - Bonnie Bras Road from IH 35E to US 377
 Project Schedule
 October 5, 2010

Schedule 1: IH-35E to Roselawn Drive
 Schedule 2: Roselawn Drive to Vintage Blvd

Attachment B: Vintage Blvd to SH 377

Exhibit 3

TASK	MO.	2010	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
92 Prepare Appraisal of RW to be Purchased - Schedule 2													
93 Prepare Descriptions and RW Exhibits - Schedule 1 & 3													
94 Prepare Descriptions and RW Exhibits - Schedule 2													
95 Prepare Permit Request to TxDOT to Connect to US 377 Submit to the City of Denton for Review and Approval													
96 City of Denton Approval of TxDOT Application for US 377 and Submission to TxDOT for Approval													
97 TxDOT Approval to Connect to US 377													
98 Prepare Permit Request to TxDOT for new Intersection IH 35E Alignment Schedule 1													
99 City of Denton Approval of TxDOT Application for for Schedule 1 New Intersection IH 35E													
100 TxDOT Approval to Connect to IH 35E - Schedule 1													
101 Railroad Xing Plans - Schedule 1 - Work with RR for Requirements													
102 Submit RR Crossing for City of Denton Approval - Schedule 1													
103 City of Denton Approval of Schedule 1 Railroad Crossing													
104 Submit Schedule 1 Crossing Permit Application to RR for Review and Approval													
105 Approval of Schedule 1 RR Crossing													
106 Railroad Xing Plans Schedule 3 Work with RR for Requirements													
107 Submit Railroad Crossing for City of Denton Approval - Schedule 3													
108 City of Denton Approval of Schedule 3 RR Crossing													
109 Submit Schedule 3 RR Crossing permit Application to RR for Review and Approval													
110 Approval of Schedule 3 RR Crossing													
111 Coordinate work with University													
112 Prepare RW Negotiation Packets for Review and Approval by the City of Denton - Schedule 1 & 3													
113 Prepare RW Negotiation Packets for Review and Approval by the City of Denton - Schedule 2													
114 Meetings with City to keep City informed of Acquisition or Issues as Needed Both Schedules 1 & 2 RW													
115 Right of Way Acquisition													

NOTE: Schedule will adjust based on review times, and date of issue of permits

City of Denton - Bonnie Brae Road from IH 35E to US 377
 Project Schedule
 October 6, 2010

Schedule 1: IH-35E to Roselawn Drive
 Schedule 2: Roselawn Drive to Vintage Blvd

Attachment B: Vintage Blvd
 to SH 377

Exhibit 3

		MO.	2011	2012	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul
116	Aid the City with Condemnation Exhibits and Additional Appraisals, etc. as needed if Condemnation used																						
117	All R/W Obtained for Schedule 1 & 3																						
118	All R/W Obtained for Schedule 2																						
119	Prepare Final Plan Opinion Probable Cost Schedule 1 & 3																						
120	Prepare Final Plan Opinion Probable Cost Schedule 2																						
121	Prepare Specifications, Quantities, Bid Documents, Schedule 1 & 3 Submit to the City of Denton for Review and Approval																						
122	Prepare Specifications, Quantities, Bid Documents, Schedule 2 Submit to the City of Denton for Review and Approval																						
123	Bid Documents Schedule 1 & 3 Approval																						
124	Bid Documents Schedule 2 Approval																						
125	Bid Schedule 1 & 3 - Process																						
126	Bid Schedule 2 - Process																						
127	Award Construction Contract Schedule 1 & 3																						
128	Award Construction Contract Schedule 2																						
129	Construction Schedule 1 & 3																						
130	Construction Schedule 2																						
NOTE: Schedule will adjust based on review times, and date of issue of permits																							

Exhibit 4

Graham Associates, Inc.:

Principal	\$150.00
Senior Engineer	\$125.00
Registered Public Land Surveyor	\$125.00
Senior Hydrologist	\$125.00
Registered Engineer	\$100.00
Graduate Engineer	\$90.00
Graduate Hydrologist	\$95.00
Technician IV	\$90.00
Technician III	\$75.00
Technician II	\$60.00
Technician I	\$40.00
GPS Survey Crew	\$130.00
3 Man Survey Crew	\$140.00
2 Man Survey Crew	\$120.00
Clerical	\$35.00
CADD Station	\$25.00

Schrickel, Rollins & Associates, Inc.:

Project Manager	\$150.00
Senior Engineer	\$120.00
Engineers	\$90.00
Senior Landscape Architect	\$95.00
Landscape Architect II	\$80.00
Landscape Architect I	\$66.00
Lic. Irrigator	\$70.00
CAD Technician	\$70.00
Clerical	\$60.00

Blanton and Associates, Inc.:

Senior Project Manager	\$136.47
Senior Scientist	\$108.39
Env. Scientist/Planner	\$103.89
Cartography	\$87.38
Env. Tech	\$81.54
CADD Tech	\$72.82
Secretary	\$65.02
Clerical Staff	\$48.06

Other Direct Expenses	
Mileage	\$.500 (mile)
Standard Postage	\$.42 (letter)
Overnight Mail-letter size	\$16.00 each
Overnight Mail - oversized box	\$ 40.00 each
Photocopies B/W (8 1/2"x 11") \$	\$0.10 each
Photocopies B/W (11"x17") \$	\$0.20 each
Photocopies Color (8 1/2"x 11")	\$ 0.20 each
Photocopies Color (11"x17")	\$ 0.40 each
Plots (B/W Bond)	\$1.50 sq ft
Plots (Color Bond)	\$ 2.50 sq ft
Lodging/Hotel (Taxes/fees not included)	\$ 85.00 day
Meals (over night stay required)	\$ 36.00 day
Backhoe Rental	\$ 800.00 day
Hazmat Database Search	\$ 500.00 search

Landtec Engineers, LLC

PERSONNEL

Project Geotechnical Engineer	\$ 125.00
Senior Geotechnical Engineer	\$ 135.00
Senior Project Manager	\$ 150.00
Principal Engineer	\$ 165.00
Senior Engineering Consultant	\$ 195.00
Registered Professional Land Surveyor	\$ 135.00
Expert Witness (Deposition and Trial)	\$ Reg. Rt. x 1.5
Engineering Technician I	\$ 40.00
Engineering Technician II	\$ 50.00
Engineering Technician III	\$ 60.00
Senior Engineering Technician	\$ 65.00
Engineering Assistant/Specialist	\$ 75.00
Word Processing/Clerical	\$ 50.00
Drafting/CADD	\$ 70.00
Field Survey	\$ 115.00
Field Survey over 8 hrs/day	\$ 125.00
GPS Equipment	\$ 10.00
GPS Communications	\$ 50.00
Robotic Equipment Charge	\$ 10.00
Transportation (portal to portal)	\$ 0.65/mile
Transportation w/trailer (portal to portal)	\$ 0.75/mile
Minimum Transportation Charge	\$ 50.00/trip
Support Vehicle	\$ 50.00/day
Per Diem	\$ 150.00/day
Sample/Document Shipment.\$	50.00 each

Plots/Copies	\$ 50.00/first plot; \$ 5.00 after first plot
Copies	\$ 0.10/page

DRILLING AND SAMPLING

Drilling and Intermittent Sampling in Soil	\$ 16.00/foot
Drilling and Continuous Sampling in Soil	\$ 24.00/foot
Drilling in Rock (Auger - no sampling)	\$ 15.00/foot
Core Drilling in Shale/Sandstone/Moderately Hard Limestone	\$ 25.00/foot
Core Drilling in Very Hard Rock	\$ 30.00/foot
Field Penetration Tests, split spoon or TxDOT cone	\$ 35.00/each

DRILLING AND SAMPLING CONT'D

Drilling Through Concrete	\$ 100.00/hole
Mobilization of Rig (Local)	\$ 300.00/each
Minimum Drilling fee	\$ 1250.00/each
Plug Bore Hole with Bentonite	\$ 7.50/foot
Hollow Stem Auger Drilling (3.25 I.D.) w/continuous bbl sampler	\$ 27.00/foot
Drill Rig Standby Time	\$ 185.00/hour

SOIL

Atterberg Limits (liquid and plastic limits), ASTM D4318	\$ 60.00/test
Percent Passing No. 200 Sieve, ASTM D 1140	\$ 50.00/test
Standard Proctor, ASTM D 698	\$ 140.00/test
Modified Proctor, ASTM D 1557	\$ 175.00/test
TEX-113E	\$ 225.00/test
Processing Materials greater than No. 4 Sieve Analysis, ASTM D422	\$ 65.00/test \$ 70.00/test
Lime/Atterberg Limits Series, 4 points	\$ 250.00/test
Soluble Sulfate, TxDOT 145E	\$ 100.00/test
Moisture Content, ASTM D433	\$ 15.00/test
Moisture Content and Unit Dry Weight	\$ 25.00/test
Hydraulic Conductivity, ASTM 5084	\$ 310.00/test
Hydraulic Conductivity, COE	\$ 310.00/test
Hydrometer Analysis.	\$ 115.00/test
Specific Gravity	\$ 60.00/test
Unconfined Compressive Strength	\$ 45.00/test
Unconfined Compressive Strength (core)	\$ 60.00/test

Absorption-Pressure Swell	\$ 100.00/test
Free Swell	\$ 75.00/test
Bar Linear Shrinkage	\$ 20.00/test
California Bearing Ratio (ASTM 1883)	\$ 225.00/point
Consolidation	\$ 450.00/test
Triaxial Shear – 1.4-inch, 2.0-inch diameter specimens (larger diameter specimens quoted upon request)	
a. Unconsolidated Undrained:	
- multiple specimen, 3 specimens minimum	\$ 85.00/spec
- single specimen, 3 points minimum	\$ 85.00/point
b. Consolidated Undrained	
– with pore pressure measurements:	
- multiple specimen, 3 specimens	\$ 425.00/spec
- single specimen, 3 points minimum	\$ 425.00/point
c. Consolidated Drained:	
- multiple specimen, 3 specimens minimum	\$ 450.00/spec
- single specimen, 3 points minimum	\$ 450.00/point
Direct Shear – 2.5-inch diameter specimen	
- Q-Test, 3 points minimum	\$ 175.00/point
- S-Test, 3 points minimum	\$ 250.00/point
Remolding samples	\$ 60.00/each

Alpha Testing Inc.,

STANDARD UNIT FEE SCHEDULE

1. Engineering technician services for molding concrete test specimens, performing slump, air tests and testing at batch plant. \$ 40.00/hr
2. Overtime (in excess of 8 hours per day) \$ 60.00/hr
3. Special Inspector, Full Time Masonry Observation \$ 65.00/hr
4. Overtime (in excess of 8 hours per day) \$ 97.50/hr
5. Specimen pick-up w/o field testing of concrete placement by ALPHA TESTING \$ 50.00/trip
6. Handling charge for testing specimens not molded by this Laboratory \$ 35.00/set
7. Vehicle Trip Charge \$ 30.00/trip
8. Laboratory compression testing and

	reporting of concrete cylinders	\$ 18.50/ea
8.1	Reserve concrete cylinders not tested	\$ 18.50/ea
9.	Laboratory flexural testing and reporting of concrete beams	\$ 24.00/ea
9.1	Reserve Beams not tested	\$ 24.00/ea
10.	Grout Prism (3x3x6 inch) Compression Test	\$ 25.00/ea
11.	Masonry CMU Prism, Compressive Strength Test	
11.1	Un-grouted)	\$ 75.00/ea
11.2	Grouted	\$ 110.00/ea
12.	Laboratory testing of aggregate for concrete mix design including gradation, fineness modulus, absorption, specific gravity and unit weight	\$ 225.00/ea
13.	Concrete Mix Designs:	
13.1	Review of mix design	\$ 265.00/ea
13.2	Laboratory design of concrete mix with specific strength and workability Characteristics	\$ 975.00/ea
13.3	Additional Mix Design utilizing aggregate sample	\$ 425.00/ea
13.4	Technician Design Batch Time	\$ 40.00/hr
13.5	Design Confirmation Cylinders	\$ 18.50/ea
13.6	Design Confirmation Flexural Beams	\$ 24.00/ea
14.	Special Laboratory Testing of Concrete Aggregates	
14.1	Sieve Analysis (dry method)	\$ 50.00/ea
14.2	Sieve Analysis with decantation (wet method)	\$ 55.00/ea
14.3	Specific Gravity of aggregates	\$ 70.00/ea
14.4	Organic Matter	\$ 70.00/ea
14.5	Hydrometer Analysis	\$ 125.00/ea
14.6	Percent Finer than 200 mesh	\$ 55.00/ea
14.7	Absorption	\$ 55.00/ea
14.8	Moisture Content	\$ 9.00/ea
14.9	Bulk Unit Weight(SpGr)	\$ 45.00/ea
14.10	Dry Rodded Unit Weight	\$ 30.00/ea
14.11	Loose Rodded Unit weight	\$ 20.00/ea
14.12	Los Angeles Abrasión	\$ 575.00/ea
14.13	Sodium Sulphate Soundness (3 cycles)	\$ 625.00/ea
14.14	Wet Ball Mill Test	\$ 625.00/ea
14.15	California Bearing Ration (CBR) Test	\$ 700.00/ea
14.16	Minus 200	\$ 55.00/ea
15.	Concrete Coring*	
15.1	2 or 4 Inch Diameter Cores (avg 6"/dpth)(Includes Coring, Prep & Testing)	\$ 90.00/ea
15.2	Minimum coring charge (per trip)	\$ 250.00/ea
15.3	Core Hole Patching	\$ 20.00/ea
15.4	Core Preparation if cored by others & delivered to our Laboratory	\$ 10.00/ea
15.5	Core Compression Test if cored by others & delivered to our Laboratory	\$ 25.00/ea

16.	Concrete Special Testing Services:	
16.1	Schmidt Rebound Hammer Testing (4hr Min.)	\$ 45.00/hr
16.1a	Equipment Charge	\$ 45.00/day
16.2	Windsor Probe Testing (4hr Min)	\$ 45.00/hr
16.2a	Probe Supplies	\$ 36.00/set
16.2b	Equipment Charge	\$ 45.00/day
16.3	R-Meter (Reinforcement Location) (4hr Min)	\$ 45.00/hr
16.3a	Equipment Charge	\$ 45.00/day
17.	Engineering technician services performing in-place field density testing	\$ 40.00/hr
18.	Engineering technician services for sample pick-up	\$ 40.00/hr
19.	Overtime (in excess of 8 hours per day)	\$ 60.00/hr
20.	Vehicle Trip Charge	\$ 30.00/trip
21.	Nuclear density equipment charge	
22.	Half day (0 – 4 hours)	\$ 75.00
23.	Full day (over 4 hours)	\$ 125.00
24.	Moisture/Density Relationship of Soils	
24.1	Standard Proctor (ASTM D 698)	\$ 185.00/ea
24.2	Modified Proctor (ASTM D 1557)	\$ 190.00/ea
24.3	Target Moisture Proctors	\$ 1,200.00/ea
24.4	With Lime added in laboratory, add	\$ 80.00/ea
25.	Atterberg-limit Determinations	
25.1.1	Natural	\$ 70.00/ea
25.2	With Lime, add	\$ 30.00/ea
26.	Lime Series, ph Method (Eades & Grim Method)	\$ 350.00/ea
27.	Soluble Sulphate (Standard 8 Day turn around, Rush rates quoted upon request)	\$ 95.00/ea
28.	Senior Engineering Technician for Visual Structural Observations:	\$ 65.00/hr
29.	Senior Engineering Technician for Visual Structural Observations, Overtime	\$ 97.50/hr
30.	Vehicle Trip Charge	\$ 30.00/trip
31.	Marshall stability, flow and density (3 points per test)	\$ 92.00/ea
32.	Extraction and gradation	\$ 175.00/ea
33.	Maximum Theoretical SpGr	\$ 75.00/ea
34.	Disposal Fee	\$ 25.00/ea
35.	Design of asphaltic concrete mix (Marshall Method)	
35.1	3 Aggregates, 5 Bitumen Percentages	\$ 1,300.00/ea
35.2	4 Aggregates, 5 Bitumen Percentages	\$ 1,500.00/ea
36.	Roof-cut analysis, either quantitative or qualitative type	\$ 800.00/ea
37.	Non-destructive testing of steel using ultrasonic equipment	

37.	1 Regular time (4 hour minimum)	\$ 125.00/hr
37.	2 Overtime (in excess of 8 hours per day)	\$ 150.00/hr
37.	3 Equipment Charge	\$ 50.00/day
38.	Free Swell Tests	\$ 100.00/ea
39.	Spray on Fireproofing:	
39.1	Laboratory Density	\$ 45.00/ea
39.2	In Place Bond Test	\$ 55.00/ea
40.	Fire Spread Test (ASTM E84)	
40.1	NUMBER OF SAMPLES COST PER SAMPLE	
	1	\$ 735.00
	2-5	\$ 700.00
	6 Plus	\$ 660.00
40.2	Sample Preparation if required (Per Sample)	\$ 160.00/ea
40.3	Over night Shipping (Pre Sample)	\$ 130.00/ea
41.	Floor Flatness:	
41.1	Testing Minimum Charge	\$ 450.00/min
41.2	Testing for over 18,000 sq/ft	\$ 0.025Sq/Ft
42.	Taylor # 625 Calcium Chloride Kits	\$ 40.00/ea
43	Administrative Services, test evaluation, Report & Plan Review, contract administration, laboratory and field supervision	
43.1	Principal Engineer (P.E.)	\$ 165.00/hr
43.2	Senior Project Engineer (P.E.)	\$135.00/hr
43.3	Materials Engineer	\$125.00/hr
43.4	Materials Manager	\$100.00/hr
43.5	Senior Engineering Technician	\$ 65.00/hr
43.6	Field Engineering Technician	\$ 40.00/hr

Gorrondona & Associates:

Estimated Fees

QL "B" on a unit base \$1.00 per linear foot of utility,

QL "A" SUE on a unit rate basis.

0' - 5' Depth	\$ 1,000 each
5' - 10' Depth	\$ 1,375 each
10' - 20' Depth	\$ 2,150 each
20' + Depth	\$ 3,200 each

Crossland Acquisition, Inc.

Pre-acquisition Services - Fee

Fee Acquisition (Title Review, Negotiation, & Closing)	\$5,500 each
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Relocation Assistance	\$5,000 each
Condemnation Support	\$4,500 each
Initial Appraisal – Unimproved Parcels	\$2,600 each
Initial Appraisal – Improved Parcels	\$4,700 each
Updated Appraisal Fees	\$5,000 each

Jim Henry	\$190.00/hr
Randy Spear	\$120.00/hr
Abel Garcia	\$75.00 /hr
Donna Culverhouse	\$100.00/hr

Title Fees	
Abstract Fee	\$600 per parcel
Escrow Fee	\$500 per parcel

Cost of title policy and cost of recording fees not included

Freese and Nichols, Inc.:

Basic Services

Traffic Engineer	\$187.00 /hr
EIT	\$110.00/hr
Admin	\$58.00/hr
QC	\$167.00/hr

Expenses

Black and White Plots	\$2.50 each
Color Plots	\$5.75 each
Bound Report	\$55.00 each
Computer	\$10.00 each
Mileage	\$0.61 per mile
Courier	\$38.50 each
Overnight Mail	\$27.50 each

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 GRAHAM ASSOCIATES, INC., AMENDING THE CONTRACT APPROVED BY CITY COUNCIL ON OCTOBER 19, 2010, IN THE NOT-TO-EXCEED AMOUNT OF \$5,444,253.00; SAID FIRST AMENDMENT TO PROVIDE ADDITIONAL ENGINEERING SERVICES NEEDED FOR THE BONNIE BRAE PHASE 3 WIDENING AND RECONSTRUCTION PROJECT FOR THE CAPITAL PROJECTS DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 4520 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$585,141.25, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$6,029,394.25).

WHEREAS, on October 19, 2010, City Council awarded a contract to Graham Associates, Inc. in the amount of \$5,444,253.00, pertaining to the City of Denton Bonnie Brae Widening and Improvements Project, relating to design, engineering, and related services for said project; 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 Graham Associates, Inc., which is on file in the office of the Purchasing Agent, in the amount of Five Hundred Eighty-Five Thousand One Hundred Forty-One and 25/100 (\$585,141.25) 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 \$6,029,394.25.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester , At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

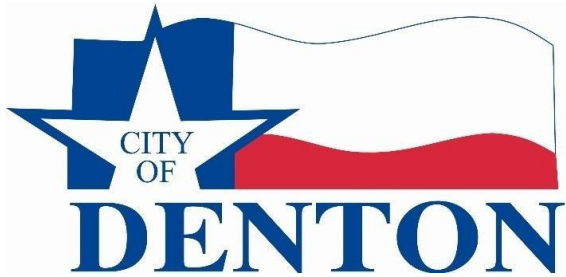
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn*



Docusign City Council Transmittal Coversheet

PSA	4520
File Name	4520 Bonnie Brae Widening & Improvements Amendment 1
Purchasing Contact	Cori Power
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 GRAHAM ASSOCIATES, INC.
PSA 4520**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 4520 (“Amendment”) by and between the City of Denton, Texas (“City”) and Graham Associates, Inc. (“Engineer”); to that certain contract executed on October 19, 2010, in the original not-to-exceed amount of \$5,444,253 (the “Agreement”); for services related to the design services of the Bonnie Brae Widening and Improvements project.

WHEREAS, the City deems it necessary to further expand the services provided by Engineer to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$585,141.25 with this Amendment for an aggregate not-to-exceed amount of \$6,029,394.25; and

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

NOW THEREFORE, the City and Engineer (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 widening and improvements of the Bonnie Brae Street - Phase 3 Project, are hereby authorized to be performed by Engineer. For and in consideration of the additional services to be performed by Engineer, 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 \$585,141.25.
2. This Amendment modifies the Agreement amount to provide an additional \$585,141.25 for the additional services with a revised aggregate not to exceed total of \$6,029,394.25.

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 Engineer, 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

“Engineer”

GRAHAM ASSOCIATES, INC.

By:

AUTHORIZED SIGNOR, TITLE

By: DocuSigned by:
Mark Burkhardt Executive Vice President
7B46FFAB11BC4F2...

AUTHORIZED SIGNOR, TITLE

ATTEST:
LAUREN THODEN, CITY SECRETARY

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

BY: _____

DocuSigned by:
Trevor Crain
7B46FFAB11BC4F2...
SIGNATURE Trevor Crain
PRINTED NAME

Director of Capital Projects
TITLE

APPROVED AS TO FORM:
MACK REINWAND, CITY ATTORNEY

Capital Projects
DEPARTMENT

BY: DocuSigned by:
Benjamin N. Samples, II
AB7F931ADF45405...


**GRAHAM
ASSOCIATES**
Graham Associates, Inc. TBPE Firm F-1191 | TBPLS Firm 101538-00

 600 Six Flags Drive, Suite 500
 Arlington, TX 76011
 817.640.8535 | 817.633.5240 fax

 1300 Summit Avenue, Suite 419
 Fort Worth, Texas 76102
 817.332.5756

Exhibit "A"

June 4, 2024

Robin Davis
 Project Manager
 Capital Projects, Engineering
 City of Denton
 901-A Texas Street
 Denton, Texas 76209

RE: South Bonnie Brae Street – Phase 3
 Contract Amendment No. 1

Dear Robin Davis:

This letter will serve as our proposal to complete work on the Hickory Creek LOMR including survey services, LOMR on two remaining Tributaries, Construction Bidding on the second time, Construction Administration, As-Built Plans, and continued support for Kansas City Railroad Permits on the above mentioned project for an hourly amount of \$585,141.25 per our 2022 hourly rates.

The work will include the following summarized scope of services. Details per task are attached.

Construction Administration (Item 5b):	\$ 51,777.50
Right of Way / Easements (Item 8):	\$ 25,025.00
FEMA Response 2-LOMR Hickory Creek Basin (Item 20a):	\$103,041.25
FEMA Response 3-LOMR Hickory Creek Basin (Item 20a):	\$ 97,987.50
Additional reviews as may be needed - NTE:	\$ 35,000.00
FEMA Submittal-LOMR Dry Fork/Hickory Ck Trib 1.1 (Item 20b):	\$ 56,000.00
Additional reviews as may be needed - NTE:	\$ 35,000.00
FEMA Submittal-LOMR Dry Fork/Hickory Ck Trib 1 (Item 20c):	\$ 50,980.00
KCS Railroad Coordination & Permits (Item 23):	\$ 70,330.00
As-Built (Item 24):	\$ 50,000.00
Reimbursable Expenses:	<u>\$ 10,000.00</u>
Total Amendment No. 1:	\$585,141.25

Item 5b: Construction Phase CA Phase III:

Work will include attending meetings with the City staff and contractor, Addressing all shop drawings and helping with change orders for City staff, addressing all questions and concerns of the contractor and making plan changes if required by the City staff for an amount not to exceed \$48,365.00.

Senior Engineer	168 hours @ \$195.00	\$32,760.00
Tech IV	70 hours @ \$120.00	\$ 8,400.00
Tech III	47 hours @ \$115.00	\$ 5,405.00
Clerical	30 hours @ \$ 60.00	<u>\$ 1,800.00</u>
	Sub-total	\$ 48,365.00

Work will include investigation into what revisions would be required for the changes in alignment of Storm Sewer Line L-1 along with estimates for quantity differences. All of this work to be done for an amount not to exceed \$3,412.50.

Senior Engineer	17.5 hours @ \$195.00	<u>\$ 3,412.50</u>
	Sub-total	\$ 3,412.50

Item 5b) Sub-total \$51,777.50

ADDITIONAL SERVICES:**Item 8: Right-of-Way****Temporary Construction Easement Documents:**

Work will include preparation of additional temporary construction easement exhibits and legal descriptions needed for Duct Bank work created by UNT and Halff for unground utility relocation outside of the S. Bonnie Brae St. right-of-way. Services for the above mentioned work for an amount not to exceed \$25,025.00.

Senior Engineer	35 hours @ \$195.00	\$ 6,825.00
Registered Public Surveyor	17.5 hours @ \$180.00	\$ 3,150.00
Survey Manager	10 hours @ \$140.00	\$ 1,400.00
Survey Crew	29 hours @ \$150.00	\$ 4,350.00
Tech IV	72.5 hours @ \$120.00	\$ 8,700.00
Clerical	10 hours @ \$ 60.00	<u>\$ 600.00</u>
	Sub-total	\$25,025.00

Item 20a: LOMR Hickory Creek for Bonnie Brae South:

Response Number 2 for FEMA will include:

Work will include providing support in surveying and H&H staff for addressing comments provided by FEMA on October 17, 2023 in response to FEMA’s letter dated January 30, 2023. There were 12 comments in the letter to be addressed by City Staff including revisions to survey sections, base flood profiles, lengths of cross sections, contraction and expansion coefficients, cross section orientation, providing as built plans of Old Bonnie Brae bridges, revisions to the stream line for the Dry Fork Branch, Adding sections, Hydraulic work map revisions, channel lengths revised, and a newspaper ad placed in local paper.
Deliverables to FEMA:

- 1) LOMR Response Letter
- 2) Newspaper Affidavit
- 3) Classified Ad
- 4) September 11, 2023 responses
- 5) Copies of all H&H Models
- 6) Copies of all work maps

The work required for this section of the Hickory Creek LOMR response number 2 for an amount not to exceed \$103,041.25.

Senior Engineer	25.25 hours @ \$195.00	\$ 4,923.75
Senior Hydrologist	415.50 hours @ \$195.00	\$81,022.50
Survey Crew	41.50 hours @ \$150.00	\$ 6,225.00
Survey Coordinator	6 hours @ \$140.00	\$ 840.00
Project Engineer I	5 hours @ \$150.00	\$ 750.00
Tech V	8 hours @ \$135.00	\$ 1,080.00
Tech IV	60.00 hours @ \$120.00	\$ 7,200.00
Tech III	4 hours @ \$115.00	\$ 460.00
Clerical	9 hours @ \$ 60.00	\$ 540.00
20a) Sub-total Part 1		\$103,041.25

Response Number 3 for FEMA will include:

Work will include providing support in surveying and H&H staff for addressing comments provided by FEMA on January 19, 2024 in response to FEMA’s letter dated October 24, 2023.

Work will include providing responses for the 8 comments provided by FEMA. The most substantial work is required by adding 5000 feet of new cross sections to the model for the new developments that occurred between Vintage Boulevard and South Bonnie Brae Street in the last 10 years. These developments were approved by the City with no permit including the original construction of Vintage Boulevard as a 2 lane road in the 100 year floodplain of Hickory Creek. The new developments include Glenwood Meadows, Vintage Phase 2, and Vintage Village all built or under construction within the floodplain of Hickory Creek in the last 10 years.

The work required for this section of the Hickory Creek LOMR response number 3 for an amount not to exceed \$97,987.50.

Senior Engineer	96.75 hours @ \$195.00	\$18,866.25
Senior Hydrologist	260.50 hours @ \$195.00	\$50,797.50
Survey Crew	116.50 hours @ \$150.00	\$17,475.00
Survey Coordinator	1 hours @ \$140.00	\$ 140.00
Tech V	8.25 hours @ \$135.00	\$ 1,113.75
Tech III	73 hours @ \$115.00	\$ 8,395.00
Clerical	20 hours @ \$ 60.00	<u>\$ 1,200.00</u>
20a) Sub-total Part 2		\$ 97,987.50

Additional reviews by FEMA are estimated not to exceed \$35,000.00 if required. We will for the purposes of this proposal assume one more review to be estimated for this project.

Item 20b: LOMR Dry Fork Hickory Creek Tributary 1.1 Phase 3 FEMA Submittal:

Work will include providing support in surveying and H&H staff for submitting plans for a LOMR on the named tributary of Hickory Creek know as Dry Fork Hickory Creek Tributary 1.1. The tributary crosses Bonnie Brae Street near the KCS Railroad crossing. This proposal will assume all work be transferred to HEC RAS and we no longer will be using any HEC II programming. This will cover the initial submittal work only and any multiple reviews by FEMA will require additional funding as listed below. We estimate the cost of this LOMR not to exceed \$56,000.00.

Senior Engineer	50 hours @ \$195.00	\$ 9,750.00
Senior Hydrologist	150 hours @ \$195.00	\$29,250.00
Survey Crew	60 hours @ \$150.00	\$ 9,000.00
Survey Coordinator	10 hours @ \$140.00	\$ 1,400.00
Tech V	40 hours @ \$135.00	\$ 5,400.00
Clerical	20 hours @ \$ 60.00	<u>\$ 1,200.00</u>
20b) Sub-total		\$ 56,000.00

Additional reviews by FEMA are estimated not to exceed \$35,000.00 if required. We will for the purposes of this proposal assume one more review to be estimated for this project.

Item 20c: LOMR Dry Fork Hickory Creek Tributary 1 Phase 3 FEMA Submittal:

This item at this time cannot be produced until the culvert construction is completed under the KCS Railroad near IH-35W. Graham Associates, Inc. is estimating this process for design and construction be completed in 3 years. We are also assuming for this proposal that both tributaries LOMR's be completed and submitted at the same time. Therefore, our estimated time for this section will be the same as Item 20b for \$50,980.00 not to exceed with our hourly rates attached.

Item 23: KCS Railroad Coordination and Permits:

This item will include support for the City staff to obtain required permits for the construction of South Bonnie Brae Street from the Kansas City Southern Railroad. The cost the permit fees is included in item Reimbursable Expenses but does not include the cost of the agreements which will be paid for by the City or contractor separately.

It was determined by the City of Denton to get the KCS Railroad to design and construct the culverts near the IH-35W area on the Dry Fork Hickory Creek Tributary 1. This item does include a budget of \$50,000.00 to coordinate the engineering of a multiple barrel culvert replacement to be done near IH-35W on the stream Dry Fork with the KCS Railroad Engineering Department. This would include preliminary Hydraulics & Hyrdology work to design the culverts and work with the KCS Engineering Department.

The work required for this section of the proposal will not exceed \$70,330.00 per our hourly rates. These fees do not include any engineering or construction agreement fees owed to the KCS Railroad for the culvert crossing.

Senior Engineer	250 hours @ \$195.00	\$48,750.00
Senior Hydrologist	50 hours @ \$195.00	\$ 9,750.00
Survey Crew	20 hours @ \$150.00	\$ 3,000.00
Survey Coordinator	2 hours @ \$140.00	\$ 280.00
Tech V	50 hours @ \$135.00	\$ 6,750.00
Clerical	30 hours @ \$ 60.00	<u>\$ 1,800.00</u>
	23) Sub-total	\$ 70,330.00

Item 24: As Built Plans:

This item will include surveying and engineering support to provide construction plans to the City with the As-Built items that the City and contractor provide to the consultant after construction. Consultant will survey the new improvements if required and provide new information to the construction plans with an As-Built stamp and signature at the end of the project. The work required for this section of the project is estimated to not exceed \$50,000.00.

Reimbursable Expenses:

Review fees for charges for KCS Railroad Permits, TDLR review and inspection fees, other permit fees required by the project. The work required for this section of the project is estimated to not exceed \$10,000.00.

We appreciate this opportunity to work with the City staff on the continuation of this project. If you have any questions, or would like to meet on this proposal please contact me at (817) 929-7934.

Sincerely,



Mark Burckhard, P.E.
Vice President

CONFLICT OF INTEREST QUESTIONNAIRE - FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

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

Graham Associates, Inc.

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

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

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

Name of Officer

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

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

4 ☐ **I have no Conflict of Interest to disclose.**

5 DocuSigned by:

Mark Buckhard

7/8/2024

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

(2) the vendor:

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

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

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: A1A14C04E98143758C199C9C832A40FA

Status: Sent

Subject: Please DocuSign: City Council Contract 4520 Bonnie Brae Widening & Improvements Amendment 1

Source Envelope:

Document Pages: 10

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Cori Power

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

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

cori.power@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Cori Power

Location: DocuSign

7/1/2024 2:12:12 PM

cori.power@cityofdenton.com

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

Cori Power

Completed

Sent: 7/1/2024 2:26:51 PM

cori.power@cityofdenton.com

Viewed: 7/1/2024 2:27:10 PM

Purchasing Supervisor

Signed: 7/1/2024 2:31:43 PM

City of Denton

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Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

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Lori Hewell



Sent: 7/1/2024 2:31:44 PM

lori.hewell@cityofdenton.com

Viewed: 7/1/2024 5:20:39 PM

Purchasing Manager

Signed: 7/1/2024 5:22:58 PM

City of Denton

Signature Adoption: Pre-selected Style

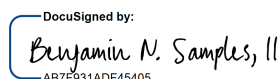
Security Level: Email, Account Authentication (None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Benjamin N. Samples, II



Sent: 7/1/2024 5:23:00 PM

benjamin.samples@cityofdenton.com

Resent: 7/3/2024 3:12:56 PM

Security Level: Email, Account Authentication (None)

Viewed: 7/3/2024 3:57:46 PM

Signature Adoption: Pre-selected Style

Signed: 7/3/2024 4:00:49 PM

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Accepted: 7/3/2024 3:57:46 PM

ID: 66098c56-85e3-4997-9d18-333dcce496d2

Mark Burckhard



Sent: 7/3/2024 4:00:51 PM

Mburckhard@grahamcivil.com

Resent: 7/8/2024 8:27:50 AM

Executive Vice President

Viewed: 7/8/2024 2:15:03 PM

DBA Graham Associates, Inc.

Signed: 7/8/2024 2:15:45 PM

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 209.65.241.66

Electronic Record and Signature Disclosure:

Accepted: 1/30/2018 4:52:36 PM

ID: eacc9463-994d-4fc4-9943-03b3a39d00a9

Signer Events	Signature	Timestamp
<p>Trevor Crain</p> <p>Trevor.Crain@cityofdenton.com</p> <p>Director of Capital Projects</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>7B46EEAB11BC4F2...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 7/8/2024 2:15:50 PM</p> <p>Viewed: 7/8/2024 2:17:32 PM</p> <p>Signed: 7/8/2024 2:18:19 PM</p>

Electronic Record and Signature Disclosure:
Accepted: 7/8/2024 2:17:32 PM
ID: 4edcf531-3532-4189-b026-6239809d4b7b

<p>Cheyenne Defee</p> <p>cheyenne.defee@cityofdenton.com</p> <p>Procurement Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	Sent: 7/8/2024 2:18:21 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Sara Hensley

sara.hensley@cityofdenton.com

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Lauren Thoden

lauren.thoden@cityofdenton.com

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

<p>Cheyenne Defee</p> <p>cheyenne.defee@cityofdenton.com</p> <p>Procurement Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div>COPIED</div>	<p>Sent: 7/1/2024 2:31:45 PM</p>
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<p>Gretna Jones</p> <p>gretna.jones@cityofdenton.com</p> <p>Legal Secretary</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (None)</p>	<div>COPIED</div>	<p>Sent: 7/8/2024 2:18:21 PM</p> <p>Viewed: 7/9/2024 11:05:23 AM</p>
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Carbon Copy Events	Status	Timestamp
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		
Robin Davis Robin.Davis@cityofdenton.com Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 5/8/2024 4:59:11 PM ID: 97d3df6f-222e-4f4e-9766-56be7678546a		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/1/2024 2:26:51 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.

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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 #: ID 24-1482, **Version:** 1

AGENDA CAPTION

Consider adoption of 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 John Hoggard dba Utility Planning Network (UPN), amending the contract approved by the City Council on January 12, 2021, in the not-to-exceed amount of \$200,000.00; amended by Amendments 1 and 2 approved by City Council and Purchasing; said third amendment to provide additional services and extend the contract term between the City of Denton and John Hoggard dba Utility Planning Network (UPN) through April 30, 2025; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7485 - providing for an additional third amendment expenditure amount not-to-exceed \$115,000.00, with the total contract amount not-to-exceed \$514,000.00, and extending a contract with John Hoggard dba Utility Planning Network (UPN) through April 30, 2025).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Cassey Ogden
DATE: August 6, 2024

SUBJECT

Consider adoption of 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 John Hoggard dba Utility Planning Network (UPN), amending the contract approved by the City Council on January 12, 2021, in the not-to-exceed amount of \$200,000.00; amended by Amendments 1 and 2 approved by City Council and Purchasing; said third amendment to provide additional services and extend the contract term between the City of Denton and John Hoggard dba Utility Planning Network (UPN) through April 30, 2025; providing for the expenditure of funds therefor; and providing an effective date (RFQ 7485 – providing for an additional third amendment expenditure amount not-to-exceed \$115,000.00, with the total contract amount not-to-exceed \$514,000.00, and extending a contract with John Hoggard dba Utility Planning Network (UPN) through April 30, 2025).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Strengthening Community and Quality of Life.

INFORMATION/BACKGROUND

The purpose of this amendment is to document the successful completion of John Hoggard dba Utility Planning Network (UPN) initial contract and extend UPN on the project for additional work through April 2025. The City of Denton engaged UPN for project management services to oversee the implementation of the Verint 311 CRM system. This CRM system is crucial for enhancing our city's customer service capabilities, allowing residents to report issues, request services, and obtain information efficiently.

Denton would like to extend this contract with additional items that are new to the scope of UPN's duties. This Amendment authorizes UPN to assist with one or any of the following items that are mutually agreed upon in writing. Such items could include, but are not limited to:

- Post Go-live assistance
- Continued buildout of the application and services provided to the customers and departments.
- Call Center management in line with industry practice
- Help facilitate the process of getting a 311 phone number that citizens can dial
- Continued communications among Denton departments to help with change management initiatives driven by Denton
- Integrations to existing workforce management software

UPN has demonstrated exceptional project management skills, ensuring that the project stays on track and within budget. Their in-depth knowledge of the Verint 311 CRM system has been instrumental in the successful progress of the project thus far. UPN's project manager has worked diligently alongside the City of Denton's team, fostering a collaborative and productive working relationship. Their proactive approach to identifying and mitigating risks, coupled with their commitment to delivering high-quality outcomes, has been a significant asset to the project.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 12, 2021, City Council approved a contract with John Hoggard dba Utility Planning Network (UPN), in the not-to-exceed amount of \$200,000 (Ordinance 20-2579).

On December 13, 2022, City Council approved Amendment No. 1 with John Hoggard dba Utility Planning Network (UPN), in the not-to-exceed amount of \$150,000, for a total not-to-exceed amount of \$350,000 (Ordinance 22-2502).

On April 3, 2024, Purchasing approved Amendment No. 2 with John Hoggard dba Utility Planning Network (UPN), in the not-to-exceed amount of \$49,000, for a total not-to-exceed amount of \$399,000.

RECOMMENDATION

Award Amendment No. 3 with John Hoggard dba Utility Planning Network (UPN), to provide additional services and extend the contract term to April 30, 2025, in a not-to-exceed amount of \$115,000, for a total amended contract amount of \$514,000.

PRINCIPAL PLACE OF BUSINESS

John Hoggard dba Utility Planning Network (UPN)
Acton, MA

FISCAL INFORMATION

These services will be funded from the project fund account 840142747. Purchase Order #201895 will be revised to include the third amendment amount of \$115,000. The total amended amount of this contract is \$514,000.

EXHIBITS

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

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

For information concerning this acquisition, contact: Jerry Looper, 940-349-7676.

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

ORDINANCE NO. 20-2579

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN), FOR 311/CRM CONSULTING SERVICES FOR CUSTOMER SERVICE AND PUBLIC AFFAIRS AS SET FORTH IN THE CONTRACT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7485 – PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES AWARDED TO JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN), FOR ONE (1) YEAR, WITH THE OPTION FOR ONE (1) ADDITIONAL ONE (1) YEAR EXTENSION, IN THE TOTAL TWO (2) YEAR NOT-TO-EXCEED AMOUNT OF \$200,000.00).

WHEREAS, John Hoggard dba Utility Planning Network (UPN), the professional services provider (the “Provider”) set forth in this ordinance, is being selected as the most highly qualified on the basis of its demonstrated competence and qualifications to perform the proposed professional services; and

WHEREAS, 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 authorized to enter into a professional service contract with John Hoggard dba Utility Planning Network (UPN), for 311/CRM Consulting Services for Customer Service and Public Affairs.

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 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 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.

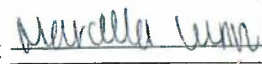

GERARD HUDSPETH, MAYOR

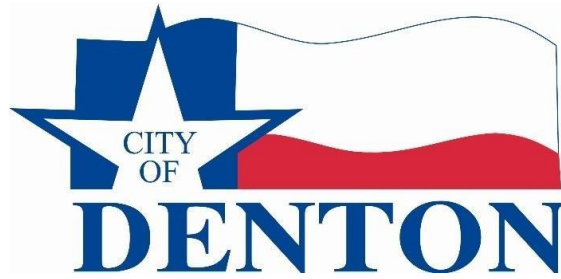
ATTEST:
ROSA RIOS, CITY SECRETARY

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: 2021.01.04 23:26:24 -06'00'



DocuSign City Council Transmittal Coversheet

PSA	7485
File Name	311/CRM Consultant
Purchasing Contact	Erica Garcia
City Council Target Date	January 12, 2021
Piggy Back Option	Not Applicable
Contract Expiration	January 12, 2023
Ordinance	20-2579

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTING SERVICES
FILE 7485**

STATE OF TEXAS §

COUNTY OF DENTON §

THIS AGREEMENT (the "Agreement") is made and entered into on 1/13/2021, 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 John Hoggard dba Utility Planning Network (UPN), with its corporate office at 100 Powdermill Rd. Acton, MA 01720, 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, a 311/CRM Consultant Service, as described in Exhibit A, which is on file at the purchasing office and incorporated herein (the "Project").

**ARTICLE II
SCOPE OF BASIC SERVICES**

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

- A. The CONSULTANT shall perform all those services as necessary and as described in the OWNER's RFQ 7485 – 311/CRM CONSULTANT SERVICES, which is on file at the purchasing office and made a part hereof as **Exhibit A** as if written word for word herein.
- B. To perform all those services set forth in CONSULTANT's proposal, which proposal is attached hereto and made a part hereof as **Exhibit B** as if written word for word herein.
- C. CONSULTANT shall perform all those services set forth in individual task orders, as described in **Exhibit B**, which shall be attached to this Agreement and made a part hereof.
- D. If there is any conflict between the terms of this Agreement and the exhibits attached to this Agreement, the terms and conditions of this Agreement will control over the terms and conditions of the attached exhibits or task orders.

ARTICLE III **ADDITIONAL SERVICES**

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

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

ARTICLE IV

TIME OF COMPLETION

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

ARTICLE V

COMPENSATION

A. COMPENSATION TERMS:

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

B. BILLING AND PAYMENT: For and in consideration of the professional services to be performed by the CONSULTANT herein, the OWNER agrees to pay, based on the cost estimate detail at an hourly rate shown in **Exhibit B** which is attached hereto and made a part of this Agreement as if written word for word herein, a total fee, including reimbursement for direct non-labor expenses not to exceed **\$200,000**.

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

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

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

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

ARTICLE VI

OBSERVATION AND REVIEW OF THE WORK

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

ARTICLE VII

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by the CONSULTANT (and CONSULTANT's subcontractors or subconsultants) pursuant to this Agreement are instruments of service and shall become the property of the OWNER upon the termination of this Agreement. The CONSULTANT is entitled to retain copies of all such documents. The documents prepared and furnished by the CONSULTANT are intended only to be applicable to this Project, and OWNER's use of these documents in other projects shall be at OWNER's sole risk and expense. In the event the OWNER uses any of the information or materials developed pursuant to this

Agreement in another project or for other purposes than specified herein, CONSULTANT is released from any and all liability relating to their use in that project.

ARTICLE VIII **INDEMNITY AGREEMENT**

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 C** which is attached hereto and made a part of this Agreement as if written word for word herein.

ARTICLE X **ALTERNATIVE DISPUTE RESOLUTION**

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

ARTICLE XI **TERMINATION OF AGREEMENT**

- A. Notwithstanding any other provision of this Agreement, either party may terminate by giving thirty (30) days' advance written notice to the other party.
- B. This Agreement may be terminated in whole or in part in the event of either party substantially failing to fulfill its obligations under this Agreement. No such termination

will be affected unless the other party is given (1) written notice (delivered by certified mail, return receipt requested) of intent to terminate and setting forth the reasons specifying the non-performance, and not less than fifteen (15) calendar days to cure the failure; and (2) an opportunity for consultation with the terminating party prior to termination.

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

ARTICLE XII **RESPONSIBILITY FOR CLAIMS AND LIABILITIES**

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

ARTICLE XIII **NOTICES**

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

To CONSULTANT:

John Hoggard dba
Utility Planning Network (UPN)
100 Powdermill Rd.
Acton, MA 01720

To OWNER:

City of Denton
Purchasing Manager –File 7485
901B Texas Street
Denton, Texas 76201

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

ARTICLE XIV
ENTIRE AGREEMENT

This Agreement and related exhibits constitute the complete and final expression of this Agreement of the parties, and is intended as a complete and exclusive statement of the terms of their agreements, and supersedes all prior contemporaneous offers, promises, representations, negotiations, discussions, communications, and agreements which may have been made in connection with the subject matter hereof.

ARTICLE XV
SEVERABILITY

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

ARTICLE XVI
COMPLIANCE WITH LAWS

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

ARTICLE XVII
DISCRIMINATION PROHIBITED

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

ARTICLE XVIII
PERSONNEL

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

ARTICLE XIX
ASSIGNABILITY

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

ARTICLE XX **MODIFICATION**

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

ARTICLE XXI **MISCELLANEOUS**

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

Exhibit A – RFQ 7485 – 311/CRM Consulting Services (on file at the purchasing office)

Exhibit B – Consultant's Rate Sheet

Exhibit C – Consultant's Insurance Requirements

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

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

C. For the purpose of this Agreement, the key persons who will perform most of the work hereunder shall be Marisa Miralles and John Hoggard. 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 1/13/2021.

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

CITY OF DENTON, TX
"OWNER"

DocuSigned by:

Ryan Adams

Ryan Adams

SIGNATURE

PRINTED NAME

DocuSigned by:

Todd Hileman

TODD HILEMAN, CITY MANGER

Director

TITLE

Customer Service and Public Affairs

DEPARTMENT

ATTEST:
CITY SECRETARY

DocuSigned by:

Rosa Rio

BY:

1C5CA8C5E175493...

APPROVED AS TO LEAGAL FORM:
AARON LEAL, CITY ATTORNEY

JOHN HOGGARD dba UTILITY
PLANNING NETWORK (UPN)
A SOLE PROPRIETOR
"CONSULTANT"

DocuSigned by:

BY: *Marcella Lunn*

4B070831B4AA438...

DocuSigned by:

John Hoggard

BY: JOHN HOGGARD

ITS: Principal Consultant

2020-698339

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

Exhibit C

CITY OF DENTON INSURANCE REQUIREMENTS FOR CONTRACTORS

Bidder's attention is directed to the insurance requirements below. It is highly recommended that bidders confer with their respective insurance carriers or brokers to determine in advance of Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low bidder fails to comply strictly with the insurance requirements, that bidder may be disqualified from award of the contract. Upon bid award, all insurance requirements shall become contractual obligations, which the successful bidder shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

*As soon as practicable after notification of bid award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance, containing the bid number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to bid opening, since the insurance requirements may not be modified or waived after bid opening unless a written exception has been submitted with the bid. **Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.***

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- VII or better**.
- Any deductibles or self-insured retentions shall be declared in the bid proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- Liability policies shall be endorsed to provide the following:

- Name as additional insured the City of Denton, its Officials, Agents, Employees and volunteers.
- That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
- Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- *Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled before the expiration date.*
- Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, the Contractor shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

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

[X] A. General Liability Insurance:

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

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

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

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

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

[X] Automobile Liability Insurance:

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

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

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

[X] Workers' Compensation Insurance

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

of the Texas Labor Code and rule 28TAC 110.110 of the Texas Worker's Compensation Commission (TWCC).

☐ **Owner's and Contractor's Protective Liability Insurance**

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

☒ **Professional Liability Insurance**

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

☐ **Builders' Risk Insurance**

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

☐ **Commercial Crime**

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

☐ **Additional Insurance**

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

ATTACHMENT 1**[] Workers' Compensation Coverage for Building or Construction Projects for Governmental Entities****A. Definitions:**

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

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

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

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

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

- 5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - 6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - 7) Contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

EXHIBIT B

**Pricing Proposal for:
RFQ 7485
311 CRM Consultant
Prepared for:
City of Denton, Texas**



Proposed by:



Utility Planning Network (UPN)

November 13, 2020

Utility Planning Network (UPN) is pleased to provide the following pricing and Scope of Services for RFQ #7485 311/CRM Consultant.

Scope of Services

Pricing includes the following Scope of Services:

1. RFQ Evaluation
2. System Demonstrations
3. System and Vendor Selection
4. Contracting
5. Implementation

The following Scope of Services items include:

STEP 1: 311 Kick off Meeting and Project Plan/Tasks

- Identify Stakeholders. We will identify who from the City will be on the committee and identify all Subject Matter Experts(SBEs)
- Where to start, and how; we will also communicate 'lessons learned' from our other 311 CRM assessment/selection/implementation projects nationwide
- Evaluate involvement/participation of all city departments
- Review all Project background and documentation
- Review existing CRM RFP
- Evaluate involvement/participation of all city departments
- A project plan, project charter and/or project scope will be compiled (leveraging existing documentation as well)
- Items to be discussed/reviewed include, but are not limited to, the following:
 - Overall strategy options to create and launch a successful 311 CRM
 - Various steps/paths that work (and don't work) when planning and launching a 311/CRM
 - Findings/recommendations for next steps (with risk possibilities and contingencies), a business plan, suggested timelines, a mission statement, budget overview, KPI considerations, and estimated resource requirements.

STEP 2: Create score sheets with weighted factors to RFP responses

- With the assistance of the City's criteria we will compile a scoring system for grading the responses.

STEP 3: Assistance in assessing proposals and narrowing down vendor responses

- Based on scoring, we will collectively narrow down the responses that closely match the requirements/goals of the City.

STEP 4: Attend and organize demos of finalists

- UPN will organize and customize a demonstration specifically for the City's unique needs.

STEP 5: Coordinate site visits of vendors' clients (if desired)

- After final demonstrations are conducted, UPN facilitates recommended site visits to other cities using the systems under consideration.
- If no site visits, UPN will assist with reference checking and best practice collection from other 311s

STEP 6: Create final report and communicate recommendations

- Using all of our tools, UPN will compose a final report with specific recommendations. This deliverable specifically outlines very detailed and quantifiable results of the assessment and scoring.

STEP 7: CRM contract negotiations

- The City's internal legal team will appropriately review and edit the legal terms of the contract, but we typically do most of the contract editing in terms of the 'meat' of the contract. Only those who know these systems can appropriately edit and negotiate functional items. We will review and edit the contracts so the City gets what it deserves, and doesn't buy what it doesn't need.
- We will negotiate to add items that the vendor does not offer, but should have offered.
- We will negotiate on pricing and other potential items we know the vendor can provide at no extra cost.

STEP 8: CRM/KB "Go Live" to 311 Launch

- Project management for CRM/KB and 311 implementation; leading to 311 CRM "Launch"
 - Continued Project Management until the 311 CRM launch date
 - Vendor oversight
 - CSR script assistance and outgoing messaging
 - On-site assistance during first 2 weeks of 311/CRM launch
- Post Launch (Optional add ons)
 - Ongoing 311 strategy
 - Planning for and implementing adoption of other departments (if doing a phased implementation)
 - Further "Customer Journey Mapping" to streamline the citizen experience

- CSR (re)scripting and call volume analysis/improvement
- Continuous process improvements and systems integration planning/implementation

Timeline

UPN is proposing the following timeline:

- For the selection phase (Steps 1-6) UPN is estimating 3 months.
- The implementation phase is estimated to be 6-9 months, depending on what system is chosen.

Pricing

Selection Phase

Selection phase (Items 1-4 of the Scope of Services) is a fixed price bid which will be billed upon completion of Steps/phases.

SCOPE OF SERVICES ITEMS	STEP(S)	DESCRIPTION	PRICING
RFP Evaluation	Steps 1 & 2	Discovery & Scoring Mechanisms	\$11,250
System Demonstrations	Steps 3 & 4	Assessments & Demo Facilitation	\$11,250
System and Vendor Selection	Steps 5 & 6	Reference & Best Practice Assistance; Final Report	\$11,250
Contracting	Step 7	Contract Negotiations	\$11,250
		TOTAL:	\$45,000

Implementation Phase

For implementation we are providing our discounted hourly rate. The amount of time will depend on the CRM system selected; but we estimate a 6 – 9 month implementation, again which can vary depending on the selected system

Implementation Hourly Rate:	\$175/hr
Implementation Hours/Week for All UPN Resources	15-20 hours/week
Implementation Timeline Estimation:	6-9 months
Travel	\$12,000

Because the timeline will be driven by what CRM is selected, the following are the estimated ranges for the projects based on the above numbers:

- **Minimum:** 3 month selection with 6 month implementation: \$108,000 plus \$12k travel
- **Maximum:** 3 month selection with 9 month implementation: \$171,000 plus \$12k travel

If the vendor requires a longer implementation timeline, then the hourly rates prevail after 9 months.

Assumptions:

- As stated in the RFQ, City of Denton can extend the project for another year at the same hourly rate if needed.
- Travel - TBD based on agreed trips (also based on City & UPN Covid-19 guidelines/procedures/needs)
- Fees are due 30 days upon services being rendered (by completion of steps/phases above)
- Post -Launch items are optional

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.

John Hoggard dba Utility Planning Network

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.

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.

4 ☐ I have no Conflict of Interest to disclose.**5** DocuSigned by:*John Hoggard*

12/11/2020

Signature of vendor doing business with the governmental entity

Date

Certificate Of Completion


Envelope Id: 3A10630288C04D29A7D73FD4144C29C9	Status: Completed
Subject: Please DocuSign: City Council Contract 7485 311/CRM Consultant	
Source Envelope:	
Document Pages: 26	Signatures: 6
Certificate Pages: 6	Initials: 1
AutoNav: Enabled	Envelope Originator:
Enveloped Stamping: Enabled	Erica Garcia
Time Zone: (UTC-06:00) Central Time (US & Canada)	901B Texas Street
	Denton, TX 76209
	erica.garcia@cityofdenton.com
	IP Address: 198.49.140.104

Record Tracking

Status: Original	Holder: Erica Garcia	Location: DocuSign
12/10/2020 10:15:11 PM	erica.garcia@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Erica Garcia	Completed	Sent: 12/10/2020 10:22:22 PM
erica.garcia@cityofdenton.com		Viewed: 12/10/2020 10:22:50 PM
Buyer		Signed: 12/10/2020 10:24:27 PM
City of Denton	Using IP Address: 198.49.140.104	
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure:		
Not Offered via DocuSign		

Lori Hewell		Sent: 12/10/2020 10:24:31 PM
lori.hewell@cityofdenton.com		Viewed: 12/11/2020 7:30:28 AM
Purchasing Manager		Signed: 12/11/2020 7:30:44 AM
City of Denton		
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
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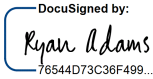
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Marcella Lunn		Sent: 12/11/2020 7:30:46 AM
marcella.lunn@cityofdenton.com		Viewed: 12/11/2020 12:15:14 PM
Deputy City Attorney		Signed: 12/11/2020 12:15:46 PM
City of Denton		
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
	Using IP Address: 68.185.202.16	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

John Hoggard		Sent: 12/11/2020 12:15:49 PM
jhoggard@utiliplan.com		Viewed: 12/11/2020 2:22:11 PM
Principal Consultant		Signed: 12/11/2020 2:36:41 PM
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
	Using IP Address: 108.20.21.8	

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Signer Events	Signature	Timestamp
Ryan Adams Ryan.Adams@cityofdenton.com Director Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 12/11/2020 2:36:44 PM Viewed: 12/15/2020 12:25:56 PM Signed: 12/15/2020 12:26:14 PM

Electronic Record and Signature Disclosure:
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 ID: 9258ba27-9072-4dac-ba7b-83032636ffda

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

Completed
 Using IP Address: 198.49.140.104

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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)


 Signature Adoption: Pre-selected Style
 Using IP Address: 107.77.200.71
 Signed using mobile

Sent: 1/13/2021 8:49:12 AM
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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)


 Signature Adoption: Pre-selected Style
 Using IP Address: 198.49.140.10

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 Signed: 1/13/2021 11:48:04 AM

Electronic Record and Signature Disclosure:
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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)

COPIED

Sent: 12/10/2020 10:24:30 PM

Electronic Record and Signature Disclosure:

Carbon Copy Events	Status	Timestamp
Not Offered via DocuSign		
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Zolaina Parker Zolaina.Parker@cityofdenton.com City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/13/2021 11:48:07 AM
Ryan Adamns Ryan.Adams@cityofdenton.com Director Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/15/2020 12:25:56 PM ID: 9258ba27-9072-4dac-ba7b-83032636ffda	COPIED	Sent: 1/13/2021 11:48:08 AM
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Notary Events	Signature	Timestamp
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Signing Complete	Security Checked	1/13/2021 11:48:04 AM
Completed	Security Checked	1/13/2021 11:48:08 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.

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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.

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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

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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.

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- 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. 22-2502

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 JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN), AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON JANUARY 12, 2021, IN THE NOT-TO-EXCEED AMOUNT OF \$200,000.00; SAID FIRST AMENDMENT TO PROVIDE PROJECT MANAGEMENT AND CONSULTING SERVICES FOR DEVELOPMENT OF A CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM AND 311 CONTACT CENTER IMPLEMENTATION FOR THE CUSTOMER SERVICE DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7485 – PROVIDING FOR AN ADDITIONAL FIRST AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$150,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$350,000.00).

WHEREAS, on January 12, 2021, City Council awarded a contract to John Hoggard dba Utility Planning Network (UPN) in the amount of \$200,000.00, for 311/CRM Consulting Services for Customer Service and Public Affairs; 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:

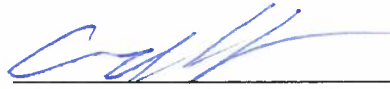
SECTION 1. The First Amendment, increasing the amount of the contract between the City and John Hoggard dba Utility Planning Network (UPN), which is on file in the office of the Purchasing Agent, in the amount of One Hundred Fifty Thousand and 0/100 (\$150,000.00) Dollars, is hereby approved, and the 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 \$350,000.00.

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

The motion to approve this ordinance was made by Brian Beck and seconded by Brandon Chase McGee. This ordinance was passed and approved by the following vote [6 - 0]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vicki Byrd, District 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Beck, District 2:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jesse Davis, District 3:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
VACANT, District 4:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brandon Chase McGee, At Large Place 5:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Watts, At Large Place 6:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


PASSED AND APPROVED this the 13th day of December, 2022.


GERARD HUDSPETH, MAYOR

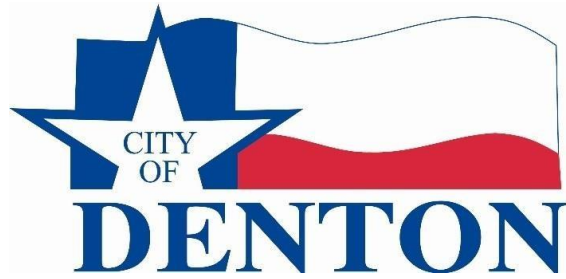
ATTEST:
ROSA RIOS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: 
Digitally signed by Marcella Lunn
DN: cn=Marcella Lunn, o=City
of Denton,
email=marcella.lunn@cityofdenton.com, c=US
Date: 2022.11.30 17:24:44 -06'00'





DocuSign City Council Transmittal Coversheet

FILE	7485
File Name	Utility Assistance Program
Purchasing Contact	Crystal Westbrook
City Council Target Date	DECEMBER 13, 2022
Piggy Back Option	Not Applicable
Contract Expiration	JANUARY 12, 2023
Ordinance	22-2502

**FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND UTILITY PLANNING NETWORK (UPN)
PSA 7485**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 7485 (“Amendment”) by and between the City of Denton, Texas (“City”) and **John Hoggard dba Utility Planning Network (UPN)** (“Consultant”); to that certain contract executed on January 12, 2021, in the original not-to-exceed amount of \$200,000 (the “Agreement”); for services related to **CRM Consultant**.

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 1 year term with this Amendment and to provide an additional not-to-exceed amount \$150,000 with this Amendment for an aggregate not-to-exceed amount of \$350,000; 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:

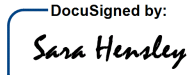
1. This Amendment modifies the Agreement to provide an additional 1 year term and an additional \$150,000 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of \$350,000.

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 12/13/2022.

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation


By:  DocuSigned by:
5236DB296270423...

ATTEST:
ROSA RIOS, CITY SECRETARY

By:  DocuSigned by:
1C5CA8C5E175493...


“CONSULTANT”

John Hoggard dba Utility Planning
Network (UPN)

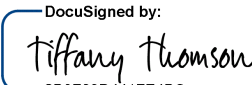
By:  DocuSigned by:
0EEF33835C6C4D6...

AUTHORIZED SIGNATURE, TITLE

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By:  DocuSigned by:
4B070831B4AA438...

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

 DocuSigned by:
2B8F09D441FE4BC... Tiffany Thomson
SIGNATURE PRINTED NAME

Director of Customer Service and Animal Services
TITLE
Customer Service
DEPARTMENT

Certificate Of Completion

Envelope Id: 7CD0E135B5244FAF8E408869692E282A

Status: Completed

Subject: Please DocuSign: City Council Contract 7485

Source Envelope:

Document Pages: 3

Signatures: 5

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

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

erica.garcia@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

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11/23/2022 10:49:25 AM

erica.garcia@cityofdenton.com

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

Erica Garcia

Completed

Sent: 11/23/2022 11:05:46 AM

erica.garcia@cityofdenton.com

Viewed: 11/23/2022 11:05:59 AM

Buyer

Signed: 11/23/2022 11:06:18 AM

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



Sent: 11/23/2022 11:06:23 AM

lori.hewell@cityofdenton.com

Viewed: 11/23/2022 12:00:02 PM

Purchasing Manager

Signed: 11/23/2022 12:00:16 PM

City of Denton

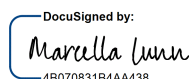
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Security Level: Email, Account Authentication
(None)

Using IP Address: 198.49.140.104

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Not Offered via DocuSign

Marcella Lunn



Sent: 11/23/2022 12:00:21 PM

marcella.lunn@cityofdenton.com

Viewed: 11/23/2022 3:00:20 PM

Deputy City Attorney

Signed: 11/23/2022 3:00:59 PM

City of Denton

Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication
(None)

Using IP Address: 166.205.190.82

Signed using mobile

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

John Hoggard



Sent: 11/23/2022 3:01:03 PM

jhoggard@utiliplan.com

Resent: 11/28/2022 8:39:15 AM

Principal Consultant

Viewed: 11/28/2022 10:01:16 AM

Security Level: Email, Account Authentication
(None)

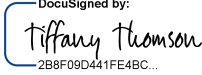


Signature Adoption: Pre-selected Style

Using IP Address: 71.174.237.132

Electronic Record and Signature Disclosure:

Accepted: 11/28/2022 10:01:16 AM

ID: bbca6190-81f1-454f-ba44-6626bce56085

Signer Events	Signature	Timestamp
<p>Tiffany Thomson Tiffany.Thomson@cityofdenton.com Director of Customer Service and Animal Services Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 11/28/2022 12:41:05 PM ID: f8023a6a-01fc-4732-98c2-24ddcd79663</p>	<p>DocuSigned by:  2B8F09D441FE4BC...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 174.244.20.74 Signed using mobile</p>	<p>Sent: 11/28/2022 10:02:01 AM Viewed: 11/28/2022 12:41:05 PM Signed: 11/28/2022 12:42:22 PM</p>
<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>Completed</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 11/28/2022 12:42:28 PM Viewed: 12/14/2022 8:57:19 AM Signed: 12/14/2022 8:57:45 AM</p>
<p>Sara Hensley sara.hensley@cityofdenton.com City Manager City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>DocuSigned by:  5236DB296270423...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 47.190.47.120 Signed using mobile</p>	<p>Sent: 12/14/2022 8:57:50 AM Viewed: 12/14/2022 8:58:13 AM Signed: 12/14/2022 8:58:19 AM</p>
<p>Rosa Rios rosa.rios@cityofdenton.com City Secretary Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p>DocuSigned by:  1C5CA8C5E175493...</p> <p>Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10</p>	<p>Sent: 12/14/2022 8:58:23 AM Viewed: 12/14/2022 10:54:29 AM Signed: 12/14/2022 10:55:24 AM</p>
<p>Electronic Record and Signature Disclosure: Accepted: 12/14/2022 10:54:29 AM ID: cd7346fd-b920-42db-b702-99db1e50072e</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 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>COPIED</p>	<p>Sent: 11/23/2022 11:06:23 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	COPIED	Sent: 11/28/2022 12:42:26 PM Viewed: 11/28/2022 2:45:28 PM
City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/14/2022 10:55:28 AM
Christa Foster Christ.Foster@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 12/14/2022 10:55:31 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/23/2022 11:05:47 AM
Certified Delivered	Security Checked	12/14/2022 10:54:29 AM
Signing Complete	Security Checked	12/14/2022 10:55:24 AM
Completed	Security Checked	12/14/2022 10:55:31 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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..

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- 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

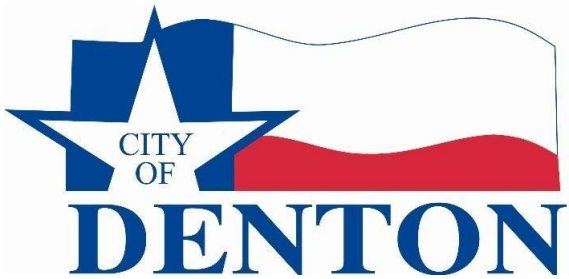
** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your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

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

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- 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
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DocuSign Transmittal Coversheet

File Name	7485-311-CRM Consultant, Amendment 2
Purchasing Contact	Christa Christian
Contract Expiration	06/09/2024

**SECOND AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND UTILITY PLANNING NETWORK (UPN)
PSA 7485**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS SECOND AMENDMENT TO CONTRACT 7485 (“Amendment”) by and between the City of Denton, Texas (“City”) and **John Hoggard dba Utility Planning Network (UPN)** (“Consultant”); to that certain contract executed on January 12, 2021, in the original not-to-exceed amount of \$200,000 (the “Original Agreement”); amended on December 13, 2022 in the additional amount of \$150,000 aggregating a not-to-exceed amount of \$350,000 (the “First Amendment”) (collectively, the Original Agreement and the First Amendment are the “Agreement”); for services related to **CRM Consultant**.

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 amount \$49,000 with this Amendment for an aggregate not-to-exceed amount of \$399,000; 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. This Amendment modifies the Agreement to provide an additional \$49,000 for additional services and materials to be provided in accordance with the terms of the Agreement with a revised aggregate not-to-exceed total of \$399,000.

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 04/03/2024.

“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

DocuSigned by:
By: Christa Christian
6A8263DE08F4429
CHRISTA CHRISTIAN, CPPB

“CONSULTANT”

John Hoggard dba Utility Planning Network (UPN)

DocuSigned by:
By: John Hoggard
0EEE33835C6C4D6
AUTHORIZED SIGNATURE, TITLE

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

DocuSigned by:
Jerry Looper Jerry Looper
77E509580B28435...
SIGNATURE PRINTED NAME

System Operations and Compliance Division Manager
TITLE

Customer Service 870200
DEPARTMENT

**City of Denton CRM Project
Project Change Order**

Project Name:	Verint CRM Project	Change Order:	UPN CO-04-24
Denton Project Leads:	Jerry Looper, City of Denton		
UPN Lead:	John Hoggard, UPN		
Date Created:	April 2, 2024		
Title	Initial UPN SOW Completion & Extension of Work		

Summary of Change Order

The purpose of this Change Order is to:

- document successful completion of UPN's initial contract and final related Statement of Work (SOW); and
- extend UPN for 280 hours

Details on Extension

Denton would like to extend UPN's work on this project. Such items could include, but are not limited to:

- CRM Post Live assistance with working on fixing Go Live issues
- Assisting Denton with adding additional departments like Parks
- Items related to managing the current vendor, if and as appropriate
- Assistance ramping up the new call center Operations Analyst and eventually the Call Center Manager
- Advocating for The City of Denton - especially the Ops Analyst and Call Center Manager - around the relationship with Verint
- Additional 311/CRM/CIS/Customer Experience (CX) strategy assistance based on mutual written agreement

Any such work on any of these items will be at the mutual agreement of both UPN and the City of Denton, in writing. Email agreement on moving forward with chosen items suffices.

City of Denton CRM Project
Project Change Order

Cost & Timing	Amount
---------------	--------

Cost: 280 hours @ 175/hr

\$49,000.00

Approval

This Change Order has been submitted, assessed, and approved by the Project Management Team and the Executive Sponsors within the City of Denton. Signed approval of this document indicates that Denton agrees UPN has adequately provided all services as desired/expected and has fulfilled all of UPN's duties/deliverables from the original UPN contract to the satisfaction of with the City of Denton. The City also approves UPN to move forward with the City of Denton as described herein.

DocuSigned by:

Signed: Jerry Looper

77E509580B28435...

Denton Executive Project Sponsor, Jerry Looper

Date: 4/3/2024

DocuSigned by:

Signed: John Hoggard

0FEF33835C6C4D6

UPN Principal, John Hoggard

Date: 4/3/2024

Certificate Of Completion

Envelope Id: 900B6AAF767947B88B5AB86F055C52DB

Status: Completed

Subject: ***Purchasing Approval*** 7485 - 311-CRM Consultant, Amendment 2

Source Envelope:

Document Pages: 5

Signatures: 5

Envelope Originator:

Certificate Pages: 5

Initials: 0

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: 198.49.140.10

Record Tracking

Status: Original

Holder: Christa Christian

Location: DocuSign

4/3/2024 9:01:40 AM

Christa.Christian@cityofdenton.com

Signer Events

Christa Christian

christa.christian@cityofdenton.com

Purchasing Supervisor

City of Denton

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:



6A8263DE08F4429...

Timestamp

Sent: 4/3/2024 9:14:06 AM

Viewed: 4/3/2024 9:14:14 AM

Signed: 4/3/2024 9:14:21 AM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

John Hoggard

jhoggard@utiliplan.com

Principal Consultant

Security Level: Email, Account Authentication
(None)

DocuSigned by:



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Electronic Record and Signature Disclosure:

Accepted: 4/3/2024 10:12:33 AM

ID: 50a0aa9c-c2a8-4739-977c-dea30e2815c1

Jerry Looper

jerry.looper@cityofdenton.com

System Operations and Compliance Division
Manager

Denton Municipal Electric

Security Level: Email, Account Authentication
(None)

DocuSigned by:



77E509580B28435...

Sent: 4/3/2024 10:12:46 AM

Viewed: 4/3/2024 10:14:35 AM

Signed: 4/3/2024 10:15:40 AM

Signature Adoption: Pre-selected Style

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Signed using mobile

Electronic Record and Signature Disclosure:

Accepted: 4/3/2024 10:14:35 AM

ID: ebfeb973-92b3-447d-824b-9a5e8c932dca

Cheyenne Defee

cheyenne.defee@cityofdenton.com

Procurement Administration Supervisor

City of Denton

Security Level: Email, Account Authentication
(None)**Completed**

Using IP Address: 198.49.140.10

Sent: 4/3/2024 10:15:41 AM

Viewed: 4/3/2024 1:58:09 PM

Signed: 4/3/2024 1:58:15 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp**

Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/3/2024 9:14:06 AM
Certified Delivered	Security Checked	4/3/2024 1:58:09 PM
Signing Complete	Security Checked	4/3/2024 1:58:15 PM
Completed	Security Checked	4/3/2024 1:58:15 PM
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. _____

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 JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN), AMENDING THE CONTRACT APPROVED BY THE CITY COUNCIL ON JANUARY 12, 2021, IN THE NOT-TO-EXCEED AMOUNT OF \$200,000.00; AMENDED BY AMENDMENTS 1 AND 2 APPROVED BY CITY COUNCIL AND PURCHASING; SAID THIRD AMENDMENT TO PROVIDE ADDITIONAL SERVICES AND EXTEND THE CONTRACT TERM BETWEEN THE CITY OF DENTON AND JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN) THROUGH APRIL 30, 2025; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFQ 7485 – PROVIDING FOR AN ADDITIONAL THIRD AMENDMENT EXPENDITURE AMOUNT NOT-TO-EXCEED \$115,000.00, WITH THE TOTAL CONTRACT AMOUNT NOT-TO-EXCEED \$514,000.00, AND EXTENDING A CONTRACT WITH JOHN HOGGARD DBA UTILITY PLANNING NETWORK (UPN) THROUGH APRIL 30, 2025).

WHEREAS, on January 12, 2021, City Council awarded a contract to John Hoggard dba Utility Planning Network (UPN), in the amount of \$200,000.00, for 311/CRM Consulting Services for Customer Service and Public Affairs; and

WHEREAS, on December 13, 2022, City Council awarded a First Amendment to John Hoggard dba Utility Planning Network (UPN), in the amount of \$150,000.00, to provide project management and consulting services for development of a customer relationship management system and 311 contact center implementation for the Customer Service Department; and

WHEREAS, on April 3, 2024, Purchasing awarded a Second Amendment to John Hoggard dba Utility Planning Network (UPN), in the amount of \$49,000.00, to provide project management and consulting services for development of a customer relationship management system and 311 contact center implementation for the Customer Service Department; and

WHEREAS, this procurement was undertaken as part of the City's governmental function; 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 John Hoggard dba Utility Planning Network (UPN) and extending the term to April 30, 2025, which is on file in the office of the Purchasing Agent, in the amount of One Hundred Fifteen Thousand and 0/100 (\$115,000.00) 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 \$514,000.00.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

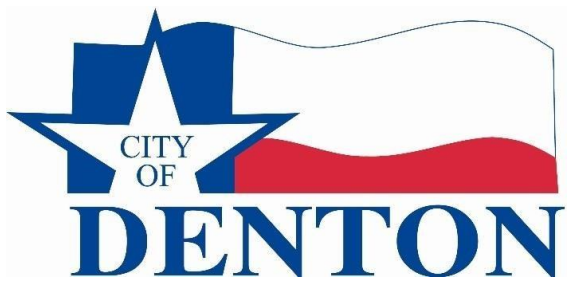
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



Docusign City Council Transmittal Coversheet

PSA	7485
File Name	311-CRM Consultant, Amendment 3
Purchasing Contact	Christina Dormady
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**THIRD AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND UTILITY PLANNING NETWORK (UPN)
PSA 7485**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS THIRD AMENDMENT TO CONTRACT 7485 (“Amendment”) by and between the City of Denton, Texas (“City”) and John Hoggard dba Utility Planning Network (UPN) (“Consultant”); to that certain contract executed on January 12, 2021, in the original not-to-exceed amount of \$200,000 (the “Original Agreement”); amended on December 13, 2022 in the additional amount of \$150,000 aggregating a not-to-exceed amount of \$350,000 (the “First Amendment”); amended on April 3, 2024 in the additional amount of \$49,000 aggregating a not-to-exceed amount of \$399,000 (the “Second Amendment”); (collectively, the Original Agreement, the First Amendment, the Second Amendment, are the “Agreement”) for services related to 311/CRM Consulting 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 1 year term with this Amendment, and to provide an additional not-to-exceed amount \$115,000 with this Amendment for an aggregate not-to-exceed amount of \$514,000; 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 311/CRM Consulting 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” to this Amendment, a total fee, including reimbursement for non-labor expenses an amount not to exceed \$115,000.
2. This Amendment modifies the Agreement amount to provide an additional \$115,000 for the additional services with a revised aggregate not to exceed total of \$514,000.

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 _____.

“Consultant”
Utility Planning Network (UPN)

“CITY”
CITY OF DENTON, TEXAS
A Texas Municipal Corporation

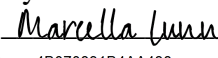
By: DocuSigned by:


AUTHORIZED SIGNATURE, TITLE

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY
ATTORNEY

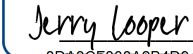
ATTEST:
LAUREN THODEN, CITY SECRETARY

By: DocuSigned by:


4B070831B4AA438...

By: _____

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

DocuSigned by:


8D A30F68AAB4D8...
SIGNATURE Jerry Looper
PRINTED NAME

JL

TITLE
Customer Service

DEPARTMENT

**City of Denton CRM Project
Project Change Order**

Exhibit A

Project Name:	Verint CRM Project	Change Order:	UPN CO-04-24
Denton Project Leads:	Jerry Looper, City of Denton		
UPN Lead:	John Hoggard, UPN		
Date Created:	April 10, 2024		
Title	Initial UPN SOW Completion & Extension of Work		

Summary of Change Order

The purpose of this Change Order is to:

- document successful completion of UPN's initial contract and final related Statement of Work (SOW); and
- extend UPN on the project for additional work through April 2025

Details on Final Completed UPN SOW and New UPN Work

Throughout the project some items within UPN's original Statement of Work (SOW) have since been removed, and some items have been added to the UPN SOW. With UPN's duties changing throughout the entire engagement with the City of Denton, this document provides a final list of UPN's totality of Scope of Work (SOW) from contract signing through the end of UPN's engagement. As such, the following Statement of Work (SOW) is the final prevailing single Scope of Work for UPN.

Items marked below with a checkmark are denoted as items that have been completed to the satisfaction of Denton:

UPN's FINAL SCOPE OF WORK UNDER THE INITIAL CONTRACT

- ✓ CRM RFQ (RFP) assessment -- making actionable recommendations on the CRM/RFQ that went out prior to UPN being hired
- ✓ Help assess CRM systems in the market
- ✓ Assist with the CRM system/vendor selection process
- ✓ Assistance in assessing proposals and narrowing down vendor responses
- ✓ Helping staff to collectively narrow down the responses that closely match the requirements/goals of the City
- ✓ Organizing CRM vendor finalists and product demonstrations; putting together a script for vendors to follow so Denton can compare apples-to-apples
- ✓ Reach out to other users of the selected CRM prior to contract signing, so we have other 311s' input on the product and vendor

City of Denton CRM Project Project Change Order

- ✓ Provide contracting advice; specific non-legal contract suggestions/edits and facilitation (as needed) during the CRM procurement process
- ✓ Implementation assistance as Verint goes through the processes of getting the CRM to be ready for Go Live and use in Denton
- ✓ Work with the selected vendor as needed to coordinate ongoing project meetings and updating the vendor PM's project schedule
- ✓ Handle any issues with the selected vendor, as an advocate of the City's best interests
- ✓ Prior to the reboot, assist the current Call Center Manager with multiple issues/questions related to CRM software implementation
- ✓ Facilitate and accompany Call Center Manager on best practice information sharing with another CM-Pro user
- ✓ Assist Denton on the initial CRM phasing business plan (ie what depts should go first etc) up until the project reboot
- ✓ Provide a re-design suggestion for the customer portal as requested by CF. (Note that CF changed mind on this one and this work was not used, as Denton is going back to using the out of the box portal which UPN recommended using initially.)
- ✓ Debrief multiple new Denton staff on project history and prior UPN recommendations
- ✓ Create a report/analysis after the project reboot on suggestions moving forward - and have subsequent conversations about that report as needed
- ✓ Gather insight on how another UPN 311 client handles cost recovery
- ✓ Work with the first four new call center agents to answer any questions they have
 - ✓ Offer a project contact for them, and help with their training needs as needed.
 - ✓ UPN will also provide them insight on how 311s work around the country, as many asked for this after initial introductions.
- ✓ Create an initial draft for determining answers and other details related to the initial calls (not any Engage Denton items) being taken within the CRM at initial Go Live. (Note that this was not a task for UPN until 2024.)
 - ✓ This will also involve discussions between UPN and at least 3 SMEs initially (Parks, CIS and whomever is the SME for items listed in a Non Utility Calls spreadsheet sent to UPN)
- ✓ UPN will make recommendations, if any are determined, if the SMEs idea for workflow can be improved. UPN will work with that SME to decide if the recommendation should, or shouldn't move forward.
- ✓ UPN will take this information back to Verint and work with Verint to have them create forms to handle whatever department(s) is recommended by UPN for initial go live.
- ✓ UPN will work to coordinate calls between the firsts dept for whom the contact center is taking calls at go live (CIS dept/Joshua) up until that dept and SME (Joshua) approves of the initial forms to use at go live for those initial CIS calls.
- ✓ Document and suggest initial call routing suggestions.
- ✓ Review and provide edits/suggestions on initial new job descriptions
- ✓ UPN will create a project re-boot suggested Charter for CRM software implementation.
- ✓ UPN will provide advice, as budget allows, on the physical call center/311 build out --- but note that this is a separate project being internally run within Denton for which UPN is not responsible. (UPN is not an expert in call center physical build out or IVR/phone systems.)

City of Denton CRM Project Project Change Order

- ✓ Work with the Verint PM to provide a suggested revised timeline for Go Live
- ✓ Work with the Verint PM to provide an initial high level framework for tasks required for phasing in future-determined call taking aspects from other depts (but not specific dates will be included)
- ✓ After a few weeks of the re-boot including UPN conversations with some departments as well as CSRs, UPN will create a CRM implementation project re-boot risk assessment document.
 - ✓ We will document it in a re-boot Risk list with recommendations on mitigating each risk, and will provide it to the project executive sponsor.
 - ✓ This document is provided only to the executive sponsor and higher level authorities, if required, as some risks may involve staff in certain projects.
- ✓ During the re-boot, UPN will continue to provide Denton with advice based on best practices and experience working with other government call centers; and will be an advocate for the executive sponsor (Jerry Looper) for any vendor related issues/concerns.
- ✓ Develop change orders, as needed, based on the evolution of the changing vision for the 311 as it relates to the CRM being implemented
- ✓ Assist with initial Go Live as budget allows
- ✓ UPN can provide additional assistance based on mutual written agreement (see below)

With all of the above being the final full and total list of items expected from UPN under the initial contact, UPN has satisfied the current contract to the full satisfaction of the City of Denton.

Denton would like to extend this contract with additional items that are new to the scope of UPN's duties. Using the last item under the fulfilled contracted SOW that indicates "UPN can provide additional assistance based on mutual written agreement" this Change Order (CO) authorizes UPN to help with one or any of the following items that are mutually agreed-upon in writing. Such items could include, but are not limited to:

- CRM Post Live assistance with working on fixing Go Live issues
- Assisting Denton with adding additional departments like Parks
- Items related to managing the current vendor, if and as appropriate
- Assistance ramping up the new call center Operations Analyst and eventually the Call Center Manager
- Advocating for The City of Denton - especially the Ops Analyst and Call Center Manager - around the relationship with Verint
- Helping evaluate the future strategy around Rubicon and Northstar, and their integration (or not) with the CRM
- Assisting with evaluating other possible uses of the CRM
- Help facilitating the process of getting the use of 311 that citizens can dial
- IVR structure advisory services going forward
- CRM form development advisory services going forward
- Change management advisory services, as mutually agreed
- Advisory assistance helping to get the portal live
- Advisory assistance helping to get the mobile app live

City of Denton CRM Project
Project Change Order

- Continued communications among Denton departments to help with change management initiatives driven by Denton
- Working with Verint and Denton to figure out if and how the 2-way integration of Cityworks could be implemented and how it could help Denton, if applicable
- Best practices advice gleaned in this project that can be gleaned to Denton's advantage for future Denton projects, like CIS replacement considerations
- Additional 311/CRM/CIS/Customer Experience (CX) strategy assistance based on mutual written agreement

Any such work on any of these items will be at the mutual agreement of both UPN and the City of Denton, in writing. Email agreement on moving forward with chosen items suffices.

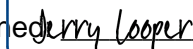
Cost & Timing	Amount
Cost: additional funds are required to move forward with this Change Order. The amount covering now through April 2025 is \$115,000.	\$115,000
Timing: UPN's engagement will close out once all UPN PO funds are used, or earlier under either party's 30-day written notice.	

Approval

This Change Order has been submitted, assessed, and approved by the Project Management Team and the Executive Sponsors within the City of Denton. Signed approval of this document indicates that Denton agrees UPN has adequately provided all services as desired/expected and has fulfilled all of UPN's duties/deliverables from the original UPN contract to the satisfaction of with the City of Denton. The City also approves UPN to move forward with the City of Denton as described herein.

DocuSigned by:

Signed

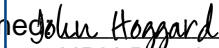

807265F30849BBD9
Denton Executive Project Sponsor, Jerry Looper

Date:

7/18/2024

DocuSigned by:

Signed


01E1F334563C11
UPN Principal, John Hoggard

Date:

7/18/2024

Certificate Of Completion

Envelope Id: D4794E390FE84E37A15F06F2CC7523A7

Status: Sent

Subject: Please DocuSign: City Council Contract 7485-311 CRM Consultant - Amendment 3

Source Envelope:

Document Pages: 7

Signatures: 5

Envelope Originator:

Certificate Pages: 6

Initials: 1

Christina Dormady

AutoNav: Enabled

901B Texas Street

Envelopelid Stamping: Enabled

Denton, TX 76209

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

christina.dormady@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Christina Dormady

Location: DocuSign

6/24/2024 9:27:29 AM

christina.dormady@cityofdenton.com

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

Christina Dormady

Completed

Sent: 6/24/2024 9:30:35 AM

christina.dormady@cityofdenton.com

Viewed: 6/24/2024 9:30:43 AM

Buyer

Signed: 6/24/2024 9:30:56 AM

City of Denton

Using IP Address: 198.49.140.10

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

Lori Hewell



Sent: 6/24/2024 9:30:59 AM

lori.hewell@cityofdenton.com

Viewed: 6/24/2024 11:50:55 AM

Purchasing Manager

Signed: 6/24/2024 11:51:26 AM

City of Denton

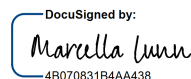
Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication
(None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Marcella Lunn



Sent: 6/24/2024 11:51:27 AM

marcella.lunn@cityofdenton.com

Resent: 7/9/2024 7:07:12 AM

Senior Deputy City Attorney

Resent: 7/10/2024 1:36:33 PM

City of Denton

Viewed: 7/10/2024 2:41:07 PM

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

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ID: 094c6ac3-6ed4-457c-b139-6740f276db7d

John Hoggard



Sent: 7/10/2024 2:43:24 PM

jhoggard@utiliplan.com

Viewed: 7/18/2024 8:13:55 AM

Principal Consultant

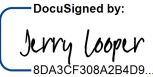
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(None)

Signature Adoption: Pre-selected Style

Using IP Address: 44.201.61.96

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ID: f994acf8-ab8f-436d-9159-31211319313c

Signer Events	Signature	Timestamp
<p>Jerry Looper</p> <p>jerry.looper@cityofdenton.com</p> <p>JL</p> <p>Security Level: Email, Account Authentication (None)</p>	<p>DocuSigned by:</p>  <p>8DA3CF308A2B4D9...</p> <p>Signature Adoption: Pre-selected Style</p> <p>Using IP Address: 198.49.140.10</p>	<p>Sent: 7/18/2024 8:19:05 AM</p> <p>Viewed: 7/18/2024 8:32:54 AM</p> <p>Signed: 7/18/2024 8:33:43 AM</p>

Electronic Record and Signature Disclosure:
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ID: 4aa297fe-801c-473e-aa9f-54b017237f8c

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

Sent: 7/18/2024 8:33:47 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

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

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

COPIED

Sent: 6/24/2024 9:30:59 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Gretna Jones
gretna.jones@cityofdenton.com
Legal Secretary
City of Denton
Security Level: Email, Account Authentication (None)

COPIED

Sent: 7/18/2024 8:33:45 AM
Viewed: 7/18/2024 8:41:57 AM

Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	7/10/2024 1:36:33 PM
Envelope Updated	Security Checked	7/10/2024 1:36:33 PM
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, IS 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 #: ID 24-1483, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Texas Cemetery Restoration LLC, for ground penetrating radar, GPS/GIS surveying and mapping, and monument repair for the IOOF and Oakwood Cemeteries for the Parks and Recreation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8458-1 - awarded to Texas Cemetery Restoration LLC, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$500,000.00).



AGENDA INFORMATION SHEET

DEPARTMENT: Procurement
ACM: Cassey Ogden
DATE: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Texas Cemetery Restoration LLC, for ground penetrating radar, GPS/GIS surveying and mapping, and monument repair for the IOOF and Oakwood Cemeteries for the Parks and Recreation Department; providing for the expenditure of funds therefor; and providing an effective date (RFP 8458-1 – awarded to Texas Cemetery Restoration LLC, for one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$500,000.00).

STRATEGIC ALIGNMENT

This action supports Key Focus Area: Strengthen Community and Quality of Life.

INFORMATION/BACKGROUND

This is a highly specialized field of work in which the knowledge, skills, and expertise in the restoration and preservation work of historic monuments are important. Familiarity and adherence to Department of Interior Standards are a requirement.

Services to include, at both Oakwood and IOOF cemeteries:

- Detailed GPS/GIS mapping to develop a current CAD map of all monuments, gravesites, crypts, roads, fences, and any other permanent landmarks that provide locational awareness to an accuracy of plus or minus 4 inches. A full set of large and small scale maps is to be provided in both digital and paper format.
- Collection of all legible data listed on monuments and photographs of each memorial compiled, organized, and delivered to the city in digital and paper format.
- Assessment of all monuments to evaluate condition and provide a priority-based repair schedule.
- Installation of stainless steel block markers in specified locations.
- Repairs, restoration, and preservation work to damaged monuments. Leveling, cleaning, and repairs to damaged and broken monuments using historically appropriate preservation materials and techniques as described by the Department of Interior standards.
- Consultation and design of weatherproof and vandal-resistant visitor information kiosks.
- Proposal for restoration work to mausoleums at IOOF and lawn crypts at Oakwood using various construction techniques to return them to a safe and historically accurate condition using historically appropriate preservation materials and techniques as described by Department of Interior standards.

	FY 24-25	FY 25-26	FY 26-27	FY 26-27	FY 26-27	Total
Annual Maintenance	\$80,000	\$80,000	\$80,000	\$80,000	\$80,000	\$400,000
Contingency						100,000
Total						\$500,000

Request for Proposals was sent to 1,101 prospective suppliers of this item. including 88 Denton firms. In addition, specifications were placed on the Procurement website for prospective suppliers to download and advertised in the local newspaper. One (1) proposal was received, and references were checked to ensure the vendor can provide the services requested in the Scope of Work. The proposal was evaluated based upon published criteria including work approach, compliance with specifications, probable performance, and price. Based upon this evaluation, Texas Cemetery Restoration LLC was ranked the highest and determined to be the best value for the City.

NIGP Code Used for Solicitation:	912, 936, 952, 988
Notifications sent for Solicitation sent in IonWave:	1,101
Number of Suppliers that viewed Solicitation in IonWave:	30
HUB-Historically Underutilized Business Invitations sent out:	147
SBE-Small Business Enterprise Invitations sent out:	393
Responses from Solicitation:	1

RECOMMENDATION

Award a contract with Texas Cemetery Restoration LLC, for ground penetrating radar, GPS/GIS surveying and mapping, and monument repair for the IOOF and Oakwood Cemeteries for the Parks and Recreation Department, in a one (1) year, with the option for four (4) additional one (1) year extensions, in the total five (5) year not-to-exceed amount of \$500,000.

PRINCIPAL PLACE OF BUSINESS

Texas Cemetery Restoration LLC
Crockett, TX

ESTIMATED SCHEDULE OF PROJECT

This is an initial one (1) year contract with options to extend the contract for four (4) additional one (1) year periods, with all terms and conditions remaining the same.

FISCAL INFORMATION

These products and services will be funded through the using department's budget on an as-needed basis. The City will only pay for services rendered and is not obligated to pay the full contract amount unless needed.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance and Contract

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

For information concerning this acquisition, contact: Marshall McGee, 940-349-8430.

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, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TEXAS CEMETERY RESTORATION LLC, FOR GROUND PENETRATING RADAR, GPS/GIS SURVEYING AND MAPPING, AND MONUMENT REPAIR FOR THE IOOF AND OAKWOOD CEMETERIES FOR THE PARKS AND RECREATION DEPARTMENT; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (RFP 8458-1 – AWARDED TO TEXAS CEMETERY RESTORATION LLC, FOR ONE (1) YEAR, WITH THE OPTION FOR FOUR (4) ADDITIONAL ONE (1) YEAR EXTENSIONS, IN THE TOTAL FIVE (5) YEAR NOT-TO-EXCEED AMOUNT OF \$500,000.00).

WHEREAS, the City has solicited, received, and evaluated competitive proposals for ground penetrating radar, GPS/GIS surveying and mapping, and monument repair for the IOOF and Oakwood Cemeteries for the Parks and Recreation Department; and

WHEREAS, the City Manager, or a designated employee, has received, reviewed, and recommended that the herein described proposals are the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals; 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 in the following numbered request for proposal for materials, equipment, supplies, or services shown in the “Request Proposals” on file in the office of the Purchasing Agent, are hereby accepted and approved as being the most advantageous to the City considering the relative importance of price and the other evaluation factors included in the request for proposals.

<u>RFP NUMBER</u>	<u>CONTRACTOR</u>	<u>AMOUNT</u>
8458-1	Texas Cemetery Restoration LLC	\$500,000.00

SECTION 2. That by the acceptance and approval of the above numbered items of the submitted proposals, the City accepts the offer of the persons submitting the proposals for such items and agrees to purchase the materials, equipment, supplies, or services in accordance with the terms, specifications, standards, quantities, and for the specified sums contained in the Proposal Invitations,

Proposals, and related documents.

SECTION 3. That should the City and person submitting approved and accepted items wish to enter into a formal written agreement as a result of the acceptance, approval, and awarding of the proposals, the City Manager, or their designated representative, is hereby authorized to execute the written contract which shall be attached hereto; provided that the written contract is in accordance with the terms, conditions, specifications, standards, quantities, and specified sums contained in the Proposal 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 above enumerated bids, the City Council hereby authorizes the expenditure of funds therefor in the amount and in accordance with the approved bids.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

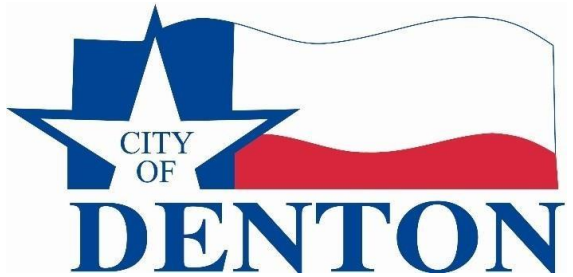
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: *Marcella Lunn* _____



Docusign City Council Transmittal Coversheet

RFP	8458-1
File Name	Cemetery Services
Purchasing Contact	Erica Garcia
City Council Target Date	
Piggy Back Option	Yes
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND TEXAS CEMETERY RESTORATION LLC
(CONTRACT 8458-1)**

THIS CONTRACT is made and entered into this date _____, by and between **Texas Cemetery Restoration LLC** a Texas Limited Liability Company, whose address is 1710 SE Loop 304, Ste. 200, Crockett, TX 75835-3528 hereinafter referred to as "Contractor," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

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

SCOPE OF SERVICES

Contractor shall provide products and/or services in accordance with the City's document RFP 8458-1 Cemetery Restoration Services, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) City of Denton's RFP 8458-1 (**Exhibit "B" on File at the Office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit "C"**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit "D"**);
- (e) Insurance Requirements (**Exhibit "E"**);
- (f) Contractor's Proposal (**Exhibit "F"**);
- (g) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "G"**);

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is
Contract # 8458-1

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

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

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

Prohibition on Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

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

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

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

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

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

Contract # 8458-1

CONTRACTOR

DocuSigned by:
BY: James Brenner
0D0EFB47460C40F...
AUTHORIZED SIGNATURE

Printed Name: James Brenner

Title: Sole Member
214-686-0014

PHONE NUMBER
rusty@texascemeteryrestoration.com

EMAIL ADDRESS
2024-1169784

TEXAS ETHICS COMMISSION
1295 CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY, CITY MANAGER

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
BY: Marcella Lunn
4B070834B4AA438...

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

DocuSigned by:
Gary Packan Gary Packan
AG6A59F7A4264A9...
SIGNATURE PRINTED NAME

Director of Parks and Recreation
TITLE
Parks and Recreation

DEPARTMENT

Exhibit A

Special Terms and Conditions

1. Total Contract Amount

The contract total for services shall not exceed \$500,000. Pricing shall be per Exhibit F attached.

2. The Quantities

The quantities indicated on Exhibit F are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

3. Contract Terms

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

The Contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council. The Supplier's request to not renew the contract must be submitted in writing to the Purchasing Manager at least 60 days prior to the contract renewal date for each year. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Price Escalation and De-escalation

On Supplier's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. Any request for price adjustment must be based on the, U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) or the manufacturer published pricing list. The maximum escalation will not exceed +/- 8% for any individual year. The escalation will be determined annually at the renewal date. The price will be increased or decreased based upon the annual percentage change in the PPI or the percentage change in the manufacturer's price list. Should the PPI or manufacturer price list change exceed a minimum threshold value of +/-1%, then the stated eligible bid prices shall be adjusted in accordance with the percent change not to exceed the 8% limit per year. The supplier should provide documentation as percentage of each cost associated with the unit prices quoted for consideration.

Request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to contract expiration of each year. Respondent must also provide supporting documentation as justification for the request. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton reserves the right to either: accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award or reject the increases within 30 calendar days after receipt of a

Contract # 8458-1

properly submitted request. If a properly submitted increase is rejected, the Contractor may request cancellation of such items from the Contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. Pre-price increase prices must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

5. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin.

Exhibit C

Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor or Supplier. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Supplier. No Terms and Conditions contained in the seller's proposal response, invoice or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, 22 and 32 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. CONTRACTOR'S OBLIGATIONS. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. EFFECTIVE DATE/TERM. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. CONTRACTOR TO PACKAGE DELIVERABLES: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. SHIPMENT UNDER RESERVATION PROHIBITED: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. TITLE & RISK OF LOSS: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be

shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth the purchase order.

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

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

9. PLACE AND CONDITION OF WORK: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. WORKFORCE

A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property .

i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed

Contract # 8458-1

any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

Immigration: The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") enacted on September 30, 1996.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

Environmental Protection: The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).

12. INVOICES:

A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

B. Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount.

The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received

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in Accounts Payable, whichever is later.

B. If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.

D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- i. delivery of defective or non-conforming deliverables by the Contractor;
- ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, with all required attachments and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given that any awarded firm who is in arrears to the City of Denton for delinquent taxes, the City may offset indebtedness owed the City through payment withholding.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. TRAVEL EXPENSES: All travel, lodging and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the contract terms. During the term of this contract, the contractor shall bill and the City shall reimburse contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. FINAL PAYMENT AND CLOSE-OUT:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and 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 ten (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 the Contract, and to allow the City 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 City 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 (5) business days of receipt of an invoice.

B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. SUBCONTRACTORS:

A. If the Contractor identified Subcontractors in a DBE/MBE/WBE agreed to Plan, the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Contract # 8458-1

Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the

Contract, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
- v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

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

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

19. WARRANTY-PRICE:

A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. WARRANTY – TITLE: The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions

in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

A. Recycled deliverables shall be clearly identified as such.

B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. WARRANTY – SERVICES: The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor

shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. STOP WORK NOTICE: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. DEFAULT: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The Contract # 8458-1

City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. **DELAYS:**

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. **INDEMNITY:**

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE

CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

32. INSURANCE: The following insurance requirements are applicable, in addition to the specific insurance requirements detailed in **Exhibit E** for services only. The successful firm shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton.

A. General Requirements:

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:
City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209
- vii. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any

reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

x. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

xi. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

xii. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

xiii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverage's indicated within the Contract.

xiv. The insurance coverage's specified in within the solicitation and requirements are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the solicitation instrument.

33. CLAIMS: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

34. NOTICES: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

35. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

36. NO WARRANTY BY CITY AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.

37. CONFIDENTIALITY: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by

the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.

39. **PUBLICATIONS:** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

40. **ADVERTISING:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

41. **NO CONTINGENT FEES:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

42. **GRATUITIES:** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with

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a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. 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.

44. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or their designee under this agreement. The contractor is expressly free to advertise and perform services for other parties while performing services for the City.

45. ASSIGNMENT-DELEGATION: The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

46. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is

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supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

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

48. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

49. DISPUTE RESOLUTION:

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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

50. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted

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in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

51. INVALIDITY: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

52. HOLIDAYS: The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veterans Day
Thanksgiving
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or their authorized designee.

53. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

54. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

55. EQUAL OPPORTUNITY

A. Equal Employment Opportunity: No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this RFQ.

B. Americans with Disabilities Act (ADA) Compliance: No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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

58. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or Contract # 8458-1

supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

59. PREVAILING WAGE RATES: The contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

60. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The contractor or supplier shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

61. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

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

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

64. FORCE MAJEURE: The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use Contract # 8458-1

commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

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

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

67. RECORDS RETENTION: The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Should a conflict arise between any of the contract documents, it shall be resolved with the following order of precedence (if applicable). In any event, the final negotiated contract shall take precedence over any and all contract documents to the extent of such conflict.

- 1. Final negotiated contract**
- 2. RFP/Bid documents**
- 3. City's standard terms and conditions**
- 4. Purchase order**
- 5. Supplier terms and conditions**

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

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

The contractor shall:

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

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

EXHIBIT E

INSURANCE REQUIREMENTS

Respondent's attention is directed to the insurance requirements below. It is highly recommended that respondents confer with their respective insurance carriers or brokers to determine in advance of Proposal/Bid submission the availability of insurance certificates and endorsements as prescribed and provided herein. If an apparent low respondent fails to comply strictly with the insurance requirements, that respondent may be disqualified from award of the contract. Upon contract award, all insurance requirements shall become contractual obligations, which the successful contractor shall have a duty to maintain throughout the course of this contract.

STANDARD PROVISIONS:

Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall provide and maintain until the contracted work has been completed and accepted by the City of Denton, Owner, the minimum insurance coverage as indicated hereinafter.

As soon as practicable after notification of contract award, Contractor shall file with the Purchasing Department satisfactory certificates of insurance including any applicable addendum or endorsements, containing the contract number and title of the project. Contractor may, upon written request to the Purchasing Department, ask for clarification of any insurance requirements at any time; however, Contractors are strongly advised to make such requests prior to proposal/bid opening, since the insurance requirements may not be modified or waived after proposal/bid opening unless a written exception has been submitted with the proposal/bid. Contractor shall not commence any work or deliver any material until he or she receives notification that the contract has been accepted, approved, and signed by the City of Denton.

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

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least **A- or better**.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees, and volunteers; or, the contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- Liability policies shall be endorsed to provide the following:
 - Name as Additional Insured the City of Denton, its Officials, Agents, Employees, and volunteers.
 - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
 - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- ***Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.***
- Should any of the required insurance be provided under a claims made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.
- Should any 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 specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Contract, or longer, if so noted:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

Commercial General Liability Insurance including, but not limited to, Premises/Operations, Personal & Advertising Injury, Products/Completed

Operations, Independent Contractors, and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

B. WORKERS' COMPENSATION and EMPLOYERS LIABILITY INSURANCE

Workers' Compensation within the regulations of the Texas Workers' Compensation Act. The minimum policy limits for **Employers Liability** are:

Bodily Injury by Accident: \$100,000.00 Each Accident
 Bodily Injury by Disease: \$100,000.00 Each Employee
 Bodily Injury by Disease: \$500,000.00 Policy Limit

NOTES:

- a. If CONTRACTOR will not be providing services under the contract at a City facility, has no employees and/or is operating as a sole owner and single operator, CONTRACTOR shall provide a signed letter, with the current date, on official letterhead stating such to meet the requirement.
- b. If CONTRACTOR is a non-subscriber or is self-insured CONTRACTOR shall provide a copy of its Certificate of Authority to Self-Insure from the Texas Department of Insurance, Division of Workers' Compensation Self Insurance Regulation Program, evidence of alternative coverage and internal safety and injury coverage policies and procedures.

C. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage limit of \$1,000,000.00 per occurrence.

NOTE:

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

SUBCONTRACTING LIABILITY

(1) Without limiting any of the other obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall require each Subcontractor performing work under the

contract, at the Subcontractor's own expense, to maintain during the engagement with the CITY, types and limits of insurance that are appropriate for the services/work being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name CONTRACTOR as an additional insured.

(2) CONTRACTOR shall obtain and monitor the certificates of insurance from each Subcontractor. CONTRACTOR must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The CITY shall be entitled, upon request and without expense, to receive copies of these certificates.

EXHIBIT F RFP 8458-1 Cemetery Restoration Services				Texas Cemetery Restoration LLC
				Crockett, TX
Line #	Description	EST QTY	UOM	Unit
1	Surveyor Hourly Rate *6 Hours per request will be the minimum requested hours accepted per project.	240	EA	<u>\$220.00</u>
2	GPR Surveyor Hourly Rate *6 Hours per request will be the minimum requested hours accepted per project.	240	EA	<u>\$250.00</u>
3	Data Analyst Hourly Rate * 1 Hour minimum per request	240	EA	<u>\$200.00</u>
4	Cartographer Hourly Wage (production of maps from survey data) * 1 Hour minimum per request	240	EA	<u>\$200.00</u>
5	Monument Repair Foreman *40 Minimum for any Purchase Order or Request for Work	120	EA	<u>\$100.00</u>
6	Monument Repair Worker *We work with a crew of 3, 120 hours will be one week of work for the crew. 120 is the minimum acceptable requested hours per request.	120	EA	<u>\$95.00</u>

CONFLICT OF INTEREST QUESTIONNAIRE -**FORM CIQ****For vendor or other person doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

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

Texas Cemetery Restoration LLC

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.

Name of Officer

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

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

☐

Yes

☐

No

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

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

7/16/2024

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

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

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

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

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

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

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

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

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

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

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

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

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

Certificate Of Completion

Envelope Id: 429AD7F1BC204FBCA5DA2FD22A6091F5

Status: Sent

Subject: Please DocuSign: City Council Contract 8458-1 Cemetery Services

Source Envelope:

Document Pages: 33

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Erica Garcia

AutoNav: Enabled

901B Texas Street

Enveloped Stamping: Enabled

Denton, TX 76209

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

erica.garcia@cityofdenton.com

IP Address: 198.49.140.10

Record Tracking

Status: Original

Holder: Erica Garcia

Location: DocuSign

7/2/2024 8:26:27 AM

erica.garcia@cityofdenton.com

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

Erica Garcia

Completed

Sent: 7/2/2024 8:27:39 AM

erica.garcia@cityofdenton.com

Viewed: 7/2/2024 8:27:47 AM

Senior Buyer

Signed: 7/2/2024 8:28:41 AM

City of Denton

Using IP Address: 198.49.140.10

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

Not Offered via DocuSign

Lori Hewell



Sent: 7/2/2024 8:28:44 AM

lori.hewell@cityofdenton.com

Viewed: 7/3/2024 4:33:42 PM

Purchasing Manager

Signed: 7/3/2024 4:34:07 PM

City of Denton

Signature Adoption: Pre-selected Style

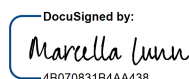
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(None)

Using IP Address: 198.49.140.10

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn



Sent: 7/3/2024 4:34:10 PM

marcella.lunn@cityofdenton.com

Viewed: 7/5/2024 9:50:33 AM

Senior Deputy City Attorney

Signed: 7/5/2024 10:07:21 AM

City of Denton

Signature Adoption: Pre-selected Style

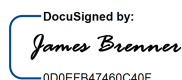
Security Level: Email, Account Authentication
(None)

Using IP Address: 198.49.140.104

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

James Brenner



Sent: 7/5/2024 10:07:25 AM

rusty@texascemeteryrestoration.com

Resent: 7/9/2024 8:55:39 AM

Sole Member

Resent: 7/10/2024 9:23:23 AM

Texas Cemetery Restoration LLC

Resent: 7/16/2024 10:27:32 AM

Security Level: Email, Account Authentication
(None)

Signature Adoption: Pre-selected Style

Viewed: 7/16/2024 3:19:29 PM

Using IP Address: 67.140.21.118

Signed: 7/16/2024 3:33:57 PM

Electronic Record and Signature Disclosure:

Accepted: 11/10/2017 12:07:46 PM

ID: 111dd559-3b11-4122-a23f-9f251103221c

Signer Events	Signature	Timestamp
Gary Packan Gary.Packan@cityofdenton.com Director of Parks and Recreation Parks and Recreation Security Level: Email, Account Authentication (None)	<div> <small>DocuSigned by:</small>  <small>AC6AE9F7A4264A9...</small> </div> Signature Adoption: Pre-selected Style Using IP Address: 198.49.140.10	Sent: 7/16/2024 3:34:01 PM Viewed: 7/16/2024 3:42:24 PM Signed: 7/16/2024 3:43:49 PM

Electronic Record and Signature Disclosure:
 Accepted: 7/16/2024 3:42:24 PM
 ID: 8602a5f9-ddc4-4439-aac1-19a4f7f14a72

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

Sent: 7/16/2024 3:43:54 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

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

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

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

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

COPIED

Sent: 7/2/2024 8:28:44 AM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Gretna Jones
 gretna.jones@cityofdenton.com
 Legal Secretary
 City of Denton
 Security Level: Email, Account Authentication (None)

COPIED

Sent: 7/16/2024 3:43:54 PM
 Viewed: 7/17/2024 9:19:14 AM

Carbon Copy Events	Status	Timestamp
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 Marshall McGee marshall.mcgee@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 11/20/2023 10:36:51 AM ID: 1ba35667-e8bd-4831-a498-896550ede2c2		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/2/2024 8:27:39 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 #: DCA23-0002g, **Version:** 1

AGENDA CAPTION

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code, regarding short-term rental use regulations and definitions, specifically amendments to Table 5.2-A- Table of Allowed Uses, Subsection 5.3.1 Use-Specific Standards - Generally, Subsection 5.3.5: Commercial Use-Specific Standards, Table 7.9-I Parking, and Section 9.2: Definitions; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villareal and seconded by Commissioner Pruett. THIS ITEM HAS BEEN PLACED ON THE AGENDA DUE TO A TIE VOTE AT THE JULY 23, 2024 CITY COUNCIL MEETING. IN ORDER TO COMPLY WITH NOTICE REQUIREMENTS, NO ACTION WILL BE TAKEN ON THIS ITEM UNTIL THE SEPTEMBER 24, 2024 CITY COUNCIL MEETING. (DCA23-0002g, Short-Term Rentals, Angie Manglaris)



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

ACM: Cassey Ogden

DATE: August 6, 2024

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code, regarding short-term rental use regulations and definitions, specifically amendments to Table 5.2-A- Table of Allowed Uses, Subsection 5.3.1 Use-Specific Standards – Generally, Subsection 5.3.5: Commercial Use-Specific Standards, Table 7.9-I Parking, and Section 9.2: Definitions; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villareal and seconded by Commissioner Pruett. THIS ITEM HAS BEEN PLACED ON THE AGENDA DUE TO A TIE VOTE AT THE JULY 23, 2024 CITY COUNCIL MEETING. IN ORDER TO COMPLY WITH NOTICE REQUIREMENTS, NO ACTION WILL BE TAKEN ON THIS ITEM UNTIL THE SEPTEMBER 24, 2024 CITY COUNCIL MEETING. (DCA23-0002g, Short-Term Rentals, Angie Manglaris)

BACKGROUND:

At the July 23, 2024 City Council Meeting, City Council considered the proposed amendments for the second time, held a public hearing, and voted [3-3] to recommend approval of the proposed amendments to the DDC as presented related to Short-Term Rental uses. In accordance with the City Council's adopted rules of procedure in Code of Ordinances Section 2-29(g)(5), due to the tie vote, this item has automatically been placed on the August 6, 2024 City Council agenda; however, no action will be taken at this meeting in order to ensure proper public hearing notice is given. Staff will conduct a broad public notification process for the Short-Term Rental Code amendments by providing a mailed notice to property owners in addition to the standard legal notice published in the newspaper as required by state law. The item will then be placed on the September 24, 2024, City Council Agenda for further consideration and potential action, as well as a public hearing.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
April 23, 2019	City Council	Consider 2019 DDC Update	Approved with an effective date of October 1, 2019
March 13, 2023, March 27, 2023,	Development Code Review Committee	Consider amendments related to Short-Term Rental uses	Continued discussion at next meeting

April 10, 2023, and April 24, 2023			
June 12, 2023	Development Code Review Committee	Consider amendments related to Short-Term Rental uses	DCRC instructed staff to prepare a Public Engagement Plan in order to receive input from the community
July 19, 2023	Planning and Zoning Commission	Consider amendments related to Short-Term Rental uses removing the primary residency requirement	Recommended approval
July 25, 2023	City Council	Consider amendments related to Short-Term Rental uses removing the primary residency requirement	Approved
September 25, 2023	Development Code Review Committee	Review proposed amendments and results of Public Engagement Survey	Continued discussion to next meeting
October 23, 2023 November 13, 2023, and December 11, 2023	Development Code Review Committee	Consider amendments related to Short-Term Rental Uses	Continued discussion to next meeting
January 8, 2024	Development Code Review Committee	Consider amendments related to Short-Term Rental Uses	DCRC directed staff to proceed with amendments as presented
February 28, 2024	Planning and Zoning Commission	Consider amendments related to Short-Term Rental Uses	Continued public hearing to March 20, 2024
March 20, 2024	Planning and Zoning Commission	Consider amendments related to Short-Term Rental Uses	Recommended approval [7-0]
May 29, 2024	Planning and Zoning Commission	Consider amendments related to Short-Term Rental Uses	Recommended approval [5-0]
June 4, 2024	City Council	Consider amendments related to Short-Term Rental Uses	Continued to July 23, 2024 [7-0]
July 23, 2024	City Council	Consider amendments related to Short-Term Rental Uses	Recommended approval – resulted in a tie vote [3-3]

EXHIBITS

Exhibit 1 - Agenda Information Sheet

Exhibit 2 – Staff Analysis
Exhibit 3 – Redline Short-Term Rental Code Amendments
Exhibit 4 – Short-Term Rental Survey Results
Exhibit 5 – Survey Summary Presentation
Exhibit 6 – Public Comment
Exhibit 7 - Presentation

Respectfully submitted:
Tina Firgens, AICP
Deputy Director of Development Services/
Planning Director

Prepared by:
Angie Manglaris, AICP
Development Review Manager

Staff Analysis

DCA23-0002g/ Short-Term Rental Code Amendments

REQUEST:

This is a city-initiated Code amendment to the Denton Development Code (DDC) related to Short-Term Rental uses, specifically amendments to Table 5.2-A: Table of Allowed Uses, Section 5.3.1 Use-Specific Standards - Generally, Section 5.3.5: Commercial Use-Specific Standards, Table 7.9-I: Minimum Required Off-Street Parking, and Section 9.2: Definitions related to the regulation of Short-Term Rentals.

CONSIDERATIONS:

Section 2.7.4D of the DDC states that an application for a DDC text amendment may be approved upon consideration of the following criteria as to whether and to what extent the proposed amendment:

1. *Is consistent with the Comprehensive Plan, other adopted plans, and other city policies;*

The proposed Code amendments related to Short-Term Rental (STR) uses are consistent with the following Comprehensive Plan policies and actions related to ensuring the continued viability of Denton's established neighborhoods:

- **Action Item 7.8.2** Prevent impacts and encroachments of incompatible uses, development scales, and intensities through adherence to the established land use standards and urban design principles.
- **Action Item 7.7:** Establish tools and strategies to enhance the quality and character of housing and neighborhoods.
- **GOAL HN-2:** Ensure the continued viability of Denton's established neighborhoods through thoughtful conservation.

The proposed Code amendments are consistent with the Denton Development Code's purpose statements that promote the health, safety, and general welfare of its inhabitants and implementing the City's Comprehensive Plan:

- **Subsection 1.2.1.** Promote the health, safety, and general welfare of the City's inhabitants.
- **Subsection 1.2.2** Implement the City's comprehensive plan - the City's guide in managing growth, promoting reinvestment, and improving the quality of life of the citizens of Denton.
- **Subsection 1.2.7** Encourage the appropriate use of land, buildings, and structures.

As shown in Exhibit 4, the results of the public engagement survey showed that there are concerns related to the impacts of STRs on established residential neighborhoods. These amendments are intended to limit those impacts and strengthen the City's ability to enforce STR regulations as nuisance issues arise.

2. *Does not conflict with other provisions of this DDC or other provisions in the Municipal Code of Ordinances;*

The proposed Code amendments do not conflict with any provisions of the DDC or Municipal Code of Ordinances. The proposed Code amendments introduce new permitting regulations (i.e. 1,000-registration certificate limitation in residential zoning

districts) for Short-Term Rentals to the DDC, as well as provide clarification, reduce duplication, and remove potential conflicts with other provisions of the DDC relating to the regulation of Short-Term Rentals.

3. *Is necessary to address a demonstrated community need;*

This proposed city-initiated Code amendment to the Denton Development Code is needed for the following reasons:

- Ensure compliance with recently established legal precedent related to municipal regulation of Short-Term Rentals, including cases from New Orleans, Louisiana and Arlington, Texas.
- Address resident concerns surrounding Short-Term Rental uses and protect the character of established residential neighborhoods.
- Strengthen enforcement of the Short-term Rental regulations to ensure compliance with the DDC and assist with the collection of Hotel Occupancy Taxes for all operating properties.
- Provide additional language within the Short-Term Rental regulations to address notification and Local Emergency Contact requirements of Short-Term Rental operators.
- Strengthen enforcement regulations regarding when the Director may revoke a Short-Term Rental permit and establish procedures to appeal the determination.

4. *Is necessary to respond to a substantial change in conditions and/or policy; and*

- The City desires to amend the DDC to ensure consistency with existing city policies and recent court rulings regarding this land use. In addition, the City desires to amend the DDC to address resident concerns surrounding Short-Term Rental uses and protect the character of established residential neighborhoods.

5. *Is consistent with the general purpose and intent of this DDC.*

The proposed Code amendments are consistent with the general purpose and intent of the DDC as described above with Consideration 1.

Draft Short-Term Rental Code Amendments

Amend Table 5.2-A: Table of Allowed Uses as follows:

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited * = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Commercial Uses																	
LODGING FACILITIES																	
Short-Term Rental	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+				5.3.5T

Commented [MA1]: The purpose of the Code amendment is to allow Short-Term Rentals in Zoning Districts that allow residential uses by right or by Specific Use Permit.

Amend Section 5.3.5T as follows:

T. Short-Term Rental

1. Registration Requirements

No person or entity shall advertise, offer to rent, or rent, lease, sublease, license, or sublicense a residential property dwelling unit or bedroom within the city as a short-term rental for which a registration has not been properly made and filed with the Development Services Department. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:

- Name, address, phone number and e-mail address of the property owner and the management company (if applicable) of the short-term rental property;
- Verification that the proposed short-term rental property dwelling unit or bedroom is managed by the property owner or by a management company;
- Name, address, phone number and e-mail address of the designated Local Emergency Contact local emergency contact;
- The maximum number of occupants permitted for the dwelling unit or sleeping room in accordance with Subsection 5.3.1D: Maximum Persons Occupying a Dwelling;
- If the applicant does not own the property where the short-term rental is located, the registrant must provide written authorization, signed by the property owner before a notary public, authorizing the registrant to operate a short-term rental on the premises.

Commented [MA2]: The purpose of the Code amendment is to clarify that an entire unit or a single bedroom can be a Short-Term Rental.

Commented [MA3]: The purpose of the Code amendment is to obtain information of the management company managing the Short-Term Rental, if applicable.

Commented [MA4]: The purpose of the Code amendment is to capitalize Local Emergency Contact to let the reader know that a definition is provided in Section 9.2 Definitions of the DDC.

Commented [MA5]: The purpose of the Code amendment is to clarify that written authorization is required by the property owner.

- e. A submission of a sketch floor plan of the dwelling dimensional room layout; and
- f. A site plan/survey of the property indicating maximum number of vehicles that can be legally parked on the property, without encroaching onto streets, sidewalks or alleys, other public rights-of-way or public property. The site plan/survey is required to ensure compliance with Section 5.3.5T.2.c.

Commented [MA6]: The purpose of the Code amendment is to provide reason for the site plan/survey requirement.

2. Registration Certificates

a. Residential Zoning Districts

Commented [MA7]: "Registration Certificate" is consistent with the language our Zoning Compliance Officers use and with the language within this ordinance.

- i. One thousand (1,000)- Registration Certificate Limit. The Department of Development Services shall issue a maximum of one thousand (1,000) short-term rental registration certificates per calendar year in Residential Zoning Districts (RR-R7). Registration certificates are per short-term rental unit, and the registration certificate cap applies to all residential use types (including multi-family) in residential districts.
- ii. The Department of Development Services shall process applications in the order of receipt and shall issue new registration certificates in the order that complete applications are received.
- iii. If the number of registration certificates reaches the one thousand (1,000)- registration certificate limit, then the Department of Development Services shall stop processing applications and add applicants to a waiting list.
- iv. A maximum of two (2) short-term rental registration certificates may be issued per parcel.
- v. A short-term rental unit cannot be within 100 feet of an existing short-term rental unit, measured at the property boundary. This does not apply to units on the same parcel.
- vi. All short-term rental registration certificates expire on December 31 of each calendar year.
- vii. Renewal season takes place from November 1 through December 31 of each year. Only renewal applications are accepted during this time.

Commented [MA8]: The purpose of this Code amendment is to establish a 1,000-permit cap and a distance separation requirement for Short-Term Rentals in residential zoning districts.

b. Non-residential Zoning Districts

- i. Registered short-term rentals in non-residential zoning districts do not count toward the one thousand (1,000)- registration certificate cap.
- ii. In multifamily developments, no more than 10% of the units within a given development may be registered as a short-term rental.
- iii. At least two (2) short-term rental units shall be allowed per multifamily development.
- iv. Short-term rentals within non-residential zoning districts are not subject to the 100-foot separation rule.

Commented [MA9]: The purpose of this Code amendment is to clarify that Short-Term Rentals in non-residential Zoning districts do not count towards the 1,000-registration certificate cap, nor are they subject to the distance separation requirement.

2.3. Operation

a. External Signage

There shall be no external on-site or off-site advertising signs or displays indicating the property is a short-term rental.

b. Limit on Occupants Allowed

No more than two adult guests per bedroom, plus no more than two additional adults shall be allowed when renting a property as a short-term rental, except that there shall be a maximum occupancy of 10 persons, adults and children.

c. Limits on Number of Vehicles

~~There shall be a maximum of one vehicle per bedroom, or the maximum number of vehicles that can be accommodated within the garage and driveway, without extending over the public rights of way (alleys and sidewalks), whichever is less. The maximum number of vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces.~~

Commented [MA10]: The purpose of this Code Amendment is to clarify parking requirements for Short-Term Rentals

d. Advertisements and Contracts

Any advertisement of the property as a short-term rental and all rental contracts must contain language that specifies: the allowed maximum number of occupants; ~~and maximum number of vehicles; and states that the short-term rental may not be used for the sole or primary purpose of having a party venue.~~

Commented [MA11]: The purpose of the Code amendment is to clarify that Short-Term Rentals shall not be used for the sole or primary purpose of having a party venue.

e. Other Restrictions and Enforcement

~~It is unlawful: The following actions are violations of this DDC and are enforceable as established in Section 1.6 Enforcement Actions.~~

Commented [MA12]: The purpose of the Code amendment is to provide the Enforcement Actions Section of the DDC.

i. ~~To advertise, offer, operate or allow to be operated as a short-term rental without first registering, in accordance with this DDC, the property in which the rental is to occur;~~

Commented [MA13]: The purpose of the Code amendment is to consolidate two provisions (i and ii) into one.

ii. ~~To advertise or offer a short-term rental without first registering, in accordance with this DDC, the property in which the rental is to occur; documented advertisement of the subject property as a short-term rental, online or offline, shall be considered evidence of a violation of this DDC;~~

~~iii-ii.~~ To operate a short-term rental that does not comply with all applicable city and state laws and codes;

~~iv-iii.~~ To operate a short-term rental without paying the required hotel occupancy taxes;

~~v-iv.~~ To offer or allow the use of a short-term rental for the sole or primary purpose of having a party venue (e.g. wedding reception, concert, bachelor or bachelorette party, or any similar activity that would assemble large numbers of attendees);

vi. ~~To fail to include a written prohibition against the use of a short-term rental for having a party in every advertisement, listing, or other publication offering the premises for rent; and~~

v. ~~Permit To permit~~ the use of short-term rental for the purpose of: housing sex offenders; operating a structured sober, recovery or other purpose

Commented [MA14]: The purpose of the Code amendment is to delete a provision already addressed in the previous Advertisements and Contracts Section above.

living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business;

vi. ~~To fail to update all required registration materials within 30 days if there is a change in Local Emergency Contact, property ownership, or property management company for a registered short-term rental.~~

vii. ~~To operate a short-term rental in a vehicle. Refer to Chapter 17, Section 17-2 of the City's Municipal Code of Ordinances for the definition of vehicle and Section 17-101.A (12) prohibiting the use a vehicle for living or sleeping quarters;~~

viii. ~~To operate a short-term rental within a non-permanent structure;~~

ix. ~~To not have a Local Emergency Contact available to respond to complaints; and~~

~~vii.x. To not correct any violation(s) found during inspection.~~

Commented [MA15]: The purpose of the Code amendment is to clarify that a RV or a travel trailer cannot be used as a Short-Term Rental.

Commented [MA16]: The purpose of the Code amendment is to clarify that a non-permanent structure cannot be used as a Short-Term Rental.

~~3-4.~~ **Brochure-Written Briefing and Safety Features**

a. **Informational ~~Brochure-Written Briefing~~**

Each registrant operating a short-term rental shall provide to guests, in writing, a brochure or e-brochure that includes:

i. ~~The registrant's 24-hour contact information~~ of the designated Local Emergency Contact;

ii. ~~A local responsible party's 24-hour contract information if the owner is not within the city limits when guests are renting the premises;~~

~~iii.ii.~~ Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and trash collection schedules; and

~~iv.iii.~~ Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire, and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates.

Commented [MA17]: The purpose of the Code amendment is to consolidate two provisions (i and ii) into one and to clarify the contact information of the designated Local Emergency Contact shall be provided in the Informational Brochure.

b. **Safety Features**

Each short-term rental registrant shall provide, in the premises, working smoke detectors in accordance with adopted codes, at least one working carbon monoxide detector and alarm, and one working fire extinguisher. The premises shall, otherwise comply with all applicable City regulations, including but not limited to Building and Fire Codes.

~~4-5.~~ **Notification of Approval of Short-Term Rental Registration**

Within 10 days of the approval of a short-term rental registration, the city shall send notice to all property owners within 100 feet of the subject property, and shall include the contact information of the designated Local Emergency Contact ~~24-hour complaint line~~, and pertinent information about standards regulating short-term rentals.

5.6. Registration Term, Fees, and ~~Renewal~~ Revocation

- a. All short-term rental registrations approved under this DDC ~~shall be valid for a period of one year from the date of its issuance~~ shall expire on December 31 of each calendar year.
- b. The fee for registration of a short-term rental is identified in the City's adopted Fee Schedule. ~~Administrative Criteria Manual.~~
The Director may revoke a short-term rental registration Upon receipt of an application for renewal of the registration, the Director may deny the renewal if there is reasonable cause to believe that:
 - i. ~~The registrant has plead no contest to or been convicted of a violation of any ordinance of the city, or any state, or federal law on the premises or has permitted such a violation on the premises by any other person; or~~
 - ii. ~~There are grounds for suspension, revocation, or other registration sanction as provided in this DDC or other applicable city codes.~~

Commented [MA18]: The December 31 expiration date is consistent with the registration certificate expiration noted in Section 2 of this Subsection.

c. In lieu of the revocation standards in Subsection 1.6.5B.4, the Director may revoke a short-term rental registration if the registrant has:

1. Received three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises within the preceding 12-month time period. Examples of such violations include, but are not limited to, noise violations, trash and debris violations, violations for parking vehicles in a manner that impedes the sidewalk or is on an unimproved surface; or

2. Knowingly permitted three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises by any other person within the preceding 12-month time period; or

3. Knowingly made a false statement on the registration application.

d. Notice of the revocation shall be given to the registrant in writing, served by certified United States mail to the registrant's mailing address on record. The revocation shall become effective fourteen (14) days from the date of mailing.

e. ~~The Director's decision is final~~ The Director's decision is final unless the owner files a written appeal pursuant to the procedures established in Subsection 2.8.3: Appeal of Administrative Decision.

f. In the event registrant's short-term rental registration is revoked by the Director and the registrant fails to successfully appeal the Director's decision, no second or additional registration shall be issued for a short-term rental on the premises for 12 months of the date such registration was revoked.

Commented [MA19]: The purpose of this language is to specify the revocation standards for STRs varies from the procedures outlined in 1.6.5B.4

Commented [MA20]: The purpose of the Code amendment is to clarify that the Director may revoke a Short-Term Rental registration at any time for reasonable cause. In addition, to clarify how and when a revocation can occur.

Commented [MA21]: The purpose of this Code Amendment is to refer to the Subsection in the DDC which outlines the appeals process.

6.7. Right to Inspect Premises

The City of Denton reserves the right, with reasonable notice to the owner, to inspect the residential premises dwelling unit or bedroom to determine compliance with this DDC as well as other applicable city codes.

a. If only a portion of the premises (bedroom) is offered for rent, then that portion, plus shared amenities and points of access, may be inspected.

b. If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to renewal of registration-its occupancy.

c. Inspections shall be required within six (6) months for all new registrations, when a registration is transferred to another owner, or when additions or modifications are performed to the property which requires a City building permit. Inspections may be required for renewals or upon a violation of any ordinance of the city, state, or federal law.

Commented [MA22]: The purpose of the Code amendment is to clarify how and when inspections of Short-Term Rentals can occur.

d. Inspections shall occur between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, the building official or designee may enter the short-term rental at any time and upon presentation of identification without the owner's permission.

Amend Section 5.3.1D Maximum Persons Occupying a Dwelling as follows:

No single dwelling unit shall have more than four unrelated persons residing therein, nor shall any "family" have, additionally, more than four unrelated persons residing with such family. Hotels, motels, bed and breakfast establishments, boarding houses, chapter house, ~~and~~ dormitories, Community Homes, Group Homes, Elderly Housing, and Short-Term Rentals are exempt from this requirement. Additionally, any organization or institutional group that receives federal or state funding for the care of individuals is exempt from this requirement.

Commented [MA23]: The purpose of the Code amendment is to also exempt Short-Term Rentals from the general requirement of Section 5.3.1D.

Amend Table 7.9-I: Minimum Required Off-Street Parking as follows:

Table 7.9-I: Minimum Required Off-Street Parking

Short-Term Rental: ~~1 space per guestroom~~ The maximum number of vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces.

Amend Section 9.2 Definitions as follows:

Short-Term Rental

The rental of an entire dwelling unit or bedroom for monetary consideration for a period of time not less than 24 hours and not more than 29 consecutive days ~~less than 30 consecutive days~~, not including a bed and breakfast, boarding or rooming house, hotel, or motel. This definition does not include offering the use of one's property where no fee is charged or collected.

Commented [MA24]: The purpose of the Code amendment is to clarify how long a Short-Term Rental can occur.

Local Emergency Contact

~~An individual other than the applicant, who resides within 20 miles of the subject property, and who is designated by the owner/applicant to act as the owner's authorized agent if the owner has traveled outside of the immediate area or is otherwise unavailable. The local emergency contact should be reachable. The property owner, registrant, or individual designated by the property owner who is available on a 24-hour basis, have access to the Short-Term Rental Property, and be authorized by the owner to act in the owner's absence to address any complaints, disturbances, and emergencies.~~

Commented [MA25]: The purpose of the Code amendment is to simplify the definition of Local Emergency Contact.

Short-Term Rental Survey

SURVEY RESPONSE REPORT

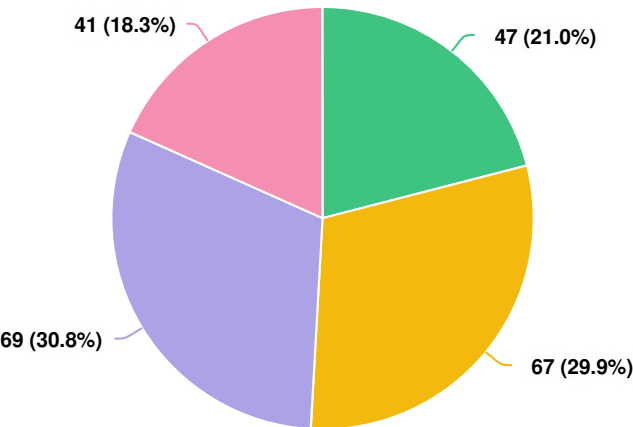
18 August 2023 - 11 September 2023

PROJECT NAME:
Short-Term Rental



SURVEY QUESTIONS

Q1 When traveling, how often do you use short-term rentals?

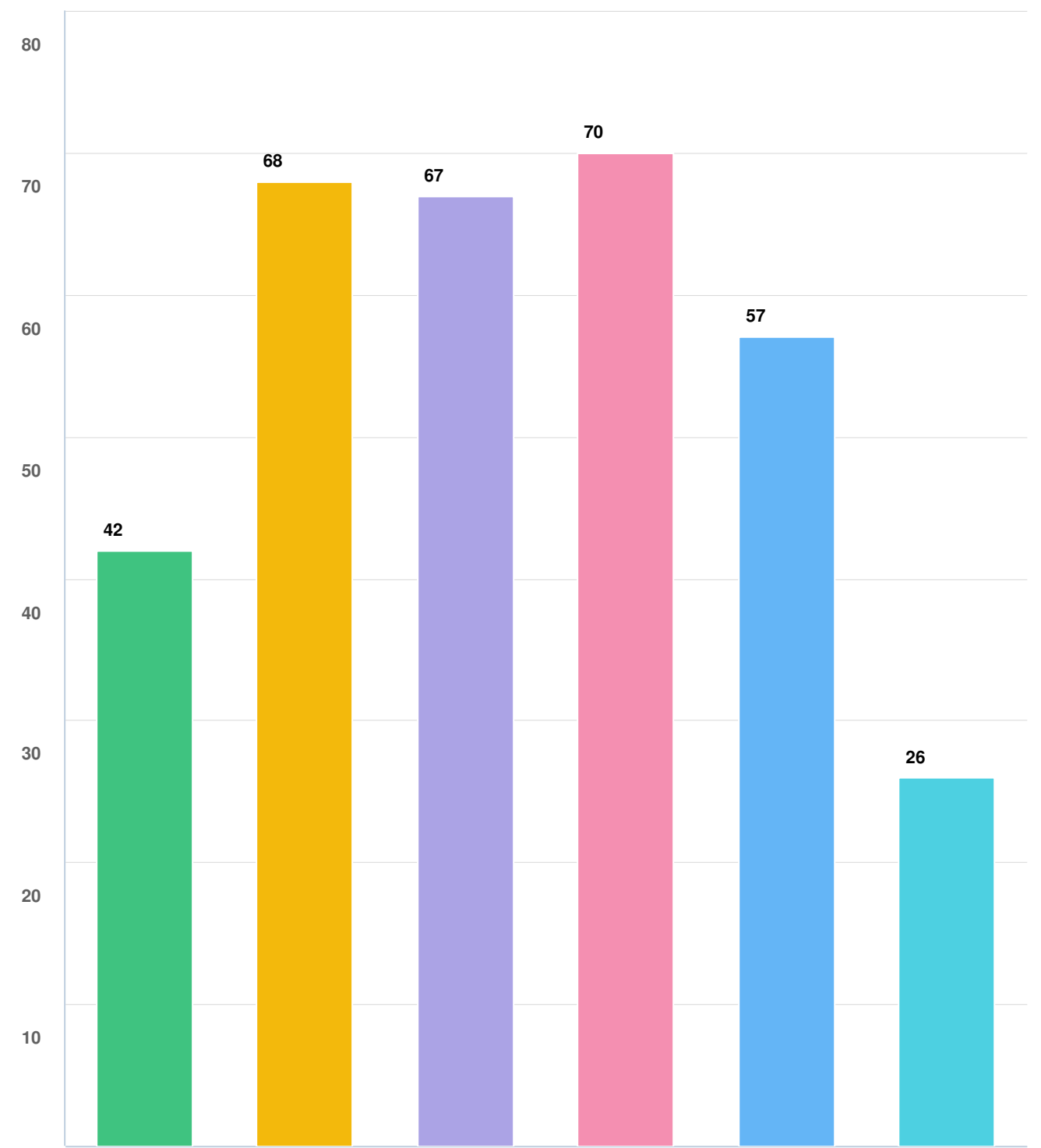


Question options

Always/Often Sometimes Rarely Never

Optional question (224 response(s), 0 skipped)
Question type: Radio Button Question

Q2 How long have you stayed at a short-term rental?Click all that apply.

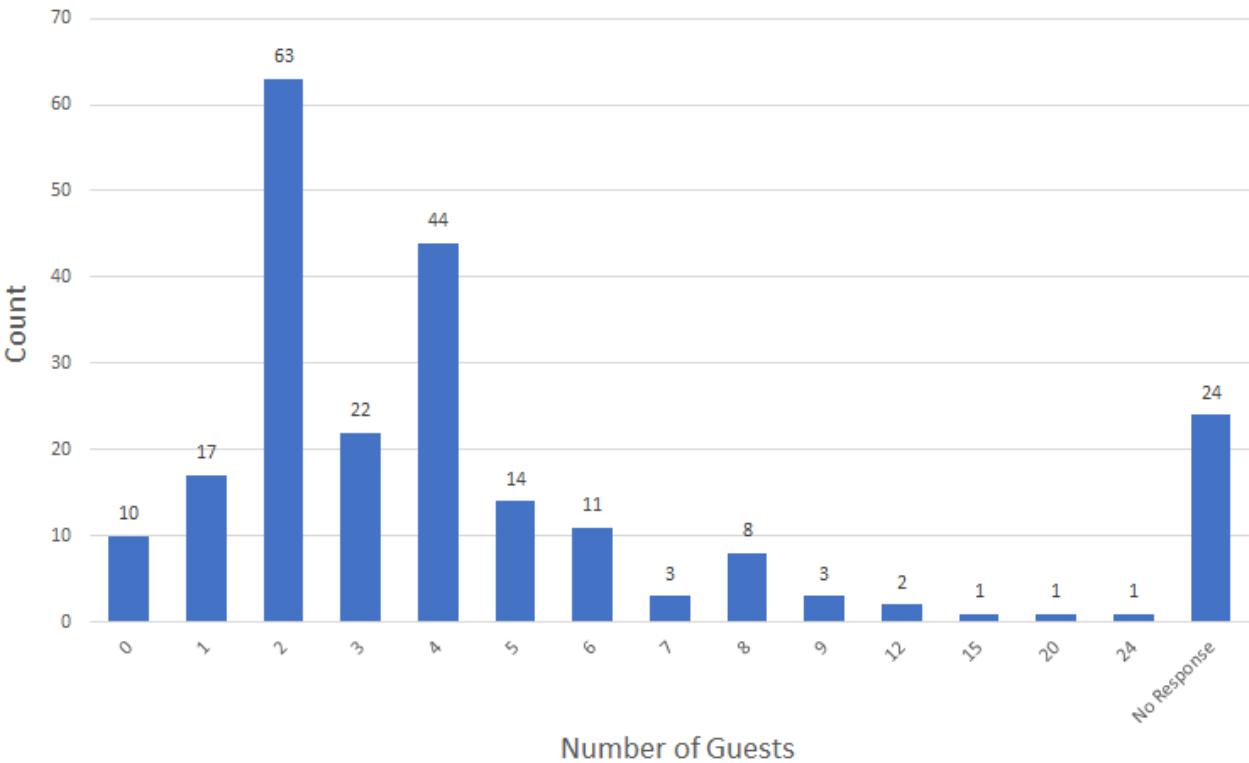


Question options

1 Day 2 Days 3 Days 4 - 6 Days A Week More than a Week

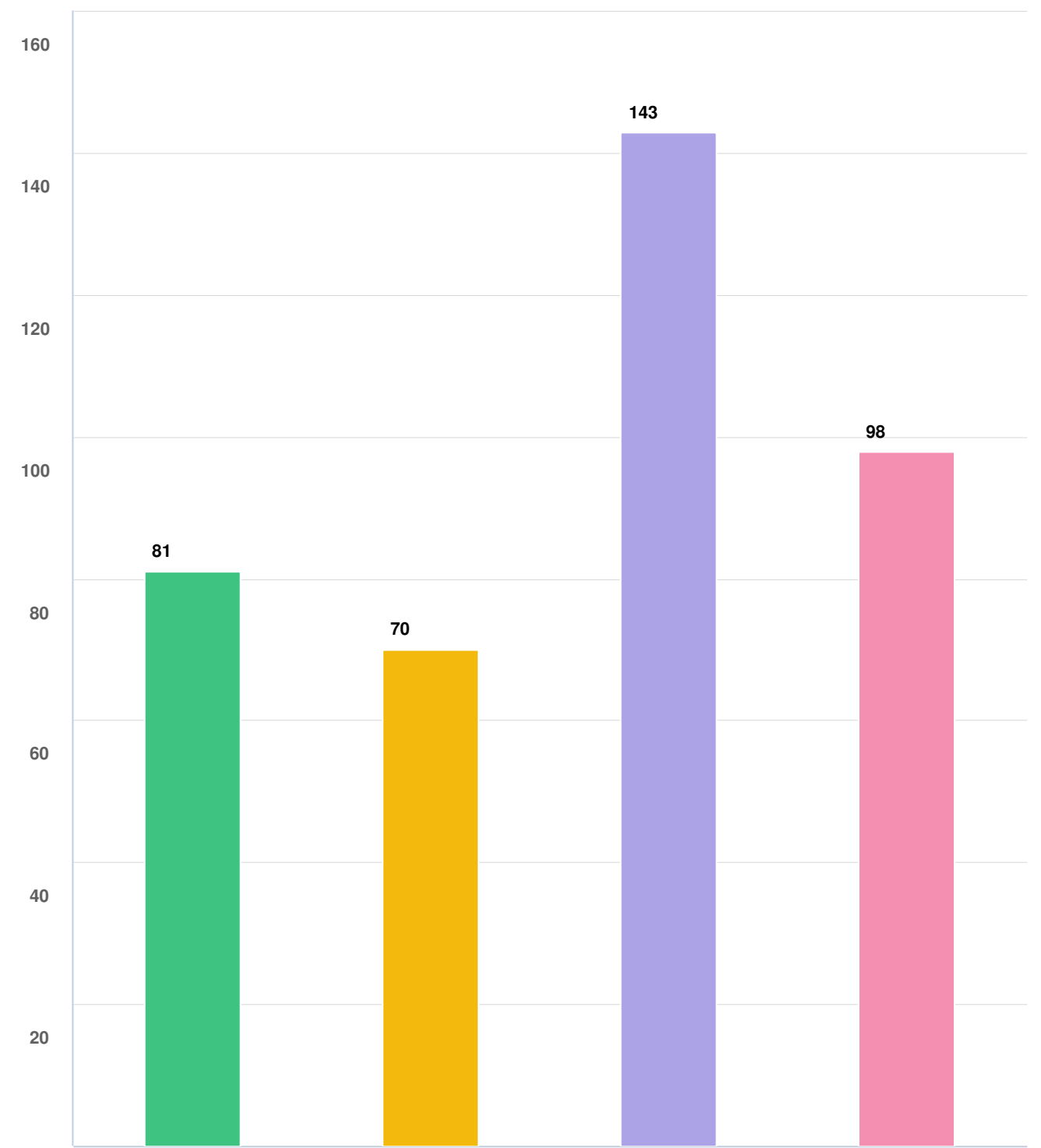
Optional question (193 response(s), 31 skipped)
Question type: Checkbox Question

Q3 How many guests (including yourself) do you normally stay with in a short-term rental?



Optional question (200 response(s), 24 skipped)
Question type: Number Question

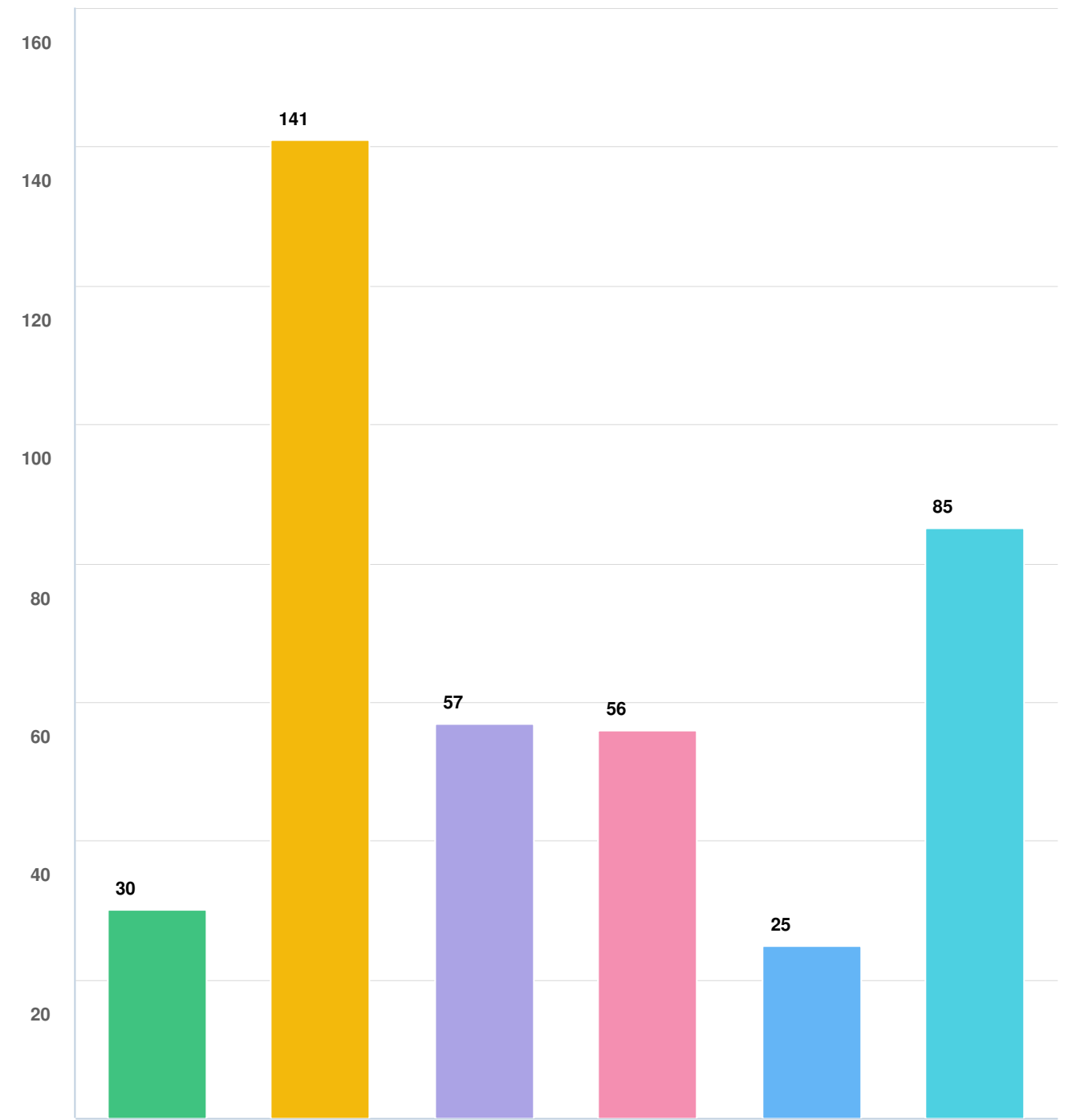
Q4 | Where were the short-term rentals you have stayed at located? Click all that apply.



Question options
● Downtown Area ● Near Shopping and Restaurants ● Near a Beach, Mountain, or Lake ● Residential Neighborhood

Optional question (190 response(s), 34 skipped)
Question type: Checkbox Question

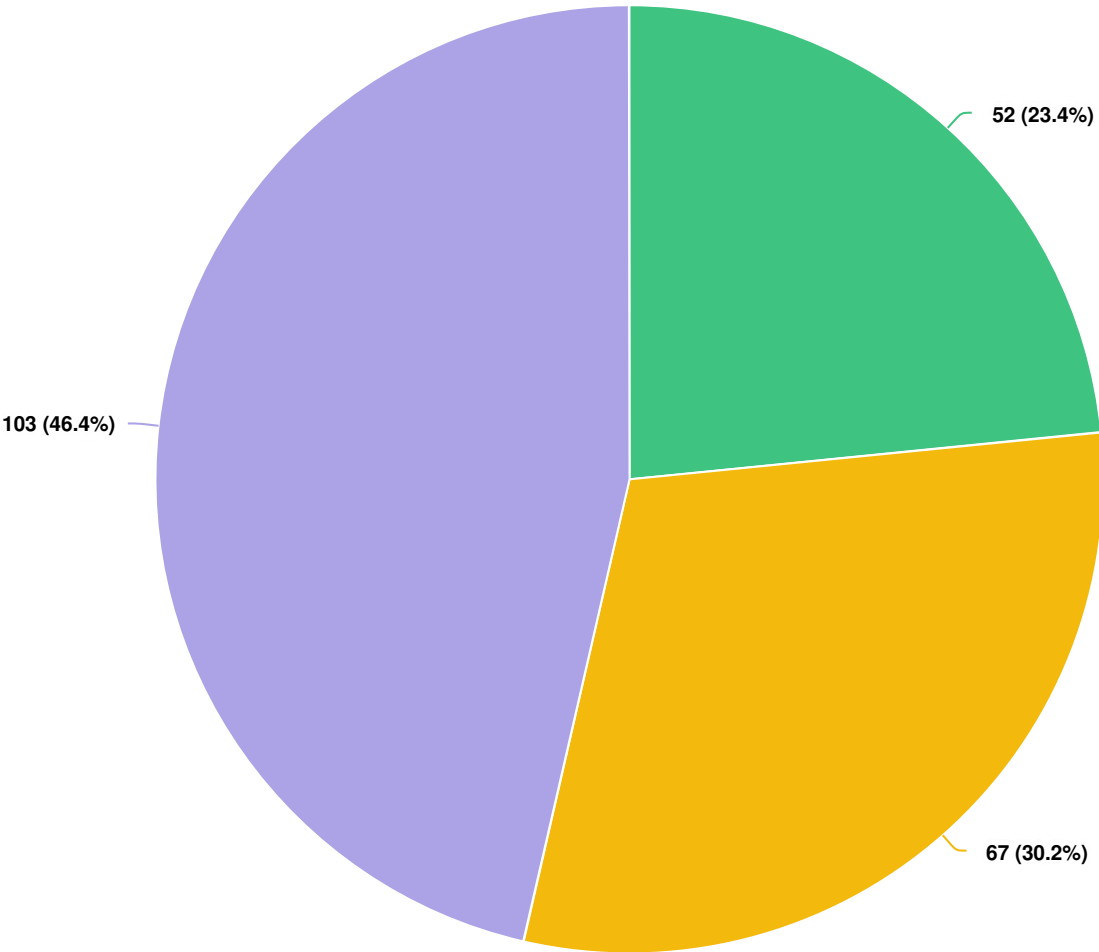
Q5 What type of dwelling places are the short-term rentals you have stayed at been?Check all that apply.



- Question options**
- Bedroom
 - Single-Family Detached Home
 - Accessory Dwelling Unit (granny flat, garage apartment, mother-in-law suite, etc.)
 - Townhome
 - Duplex
 - Apartment/Condominium

Optional question (191 response(s), 33 skipped)
Question type: Checkbox Question

Q6 Do you currently live near a short-term rental?



Question options

Yes No Unsure

Optional question (222 response(s), 2 skipped)
Question type: Radio Button Question

Q7 As short-term rentals register in Denton, which of the following experiences associated with short-term rentals do you think will happen? Rank all that apply on a scale from "definitely disagree" to "definitely agree".

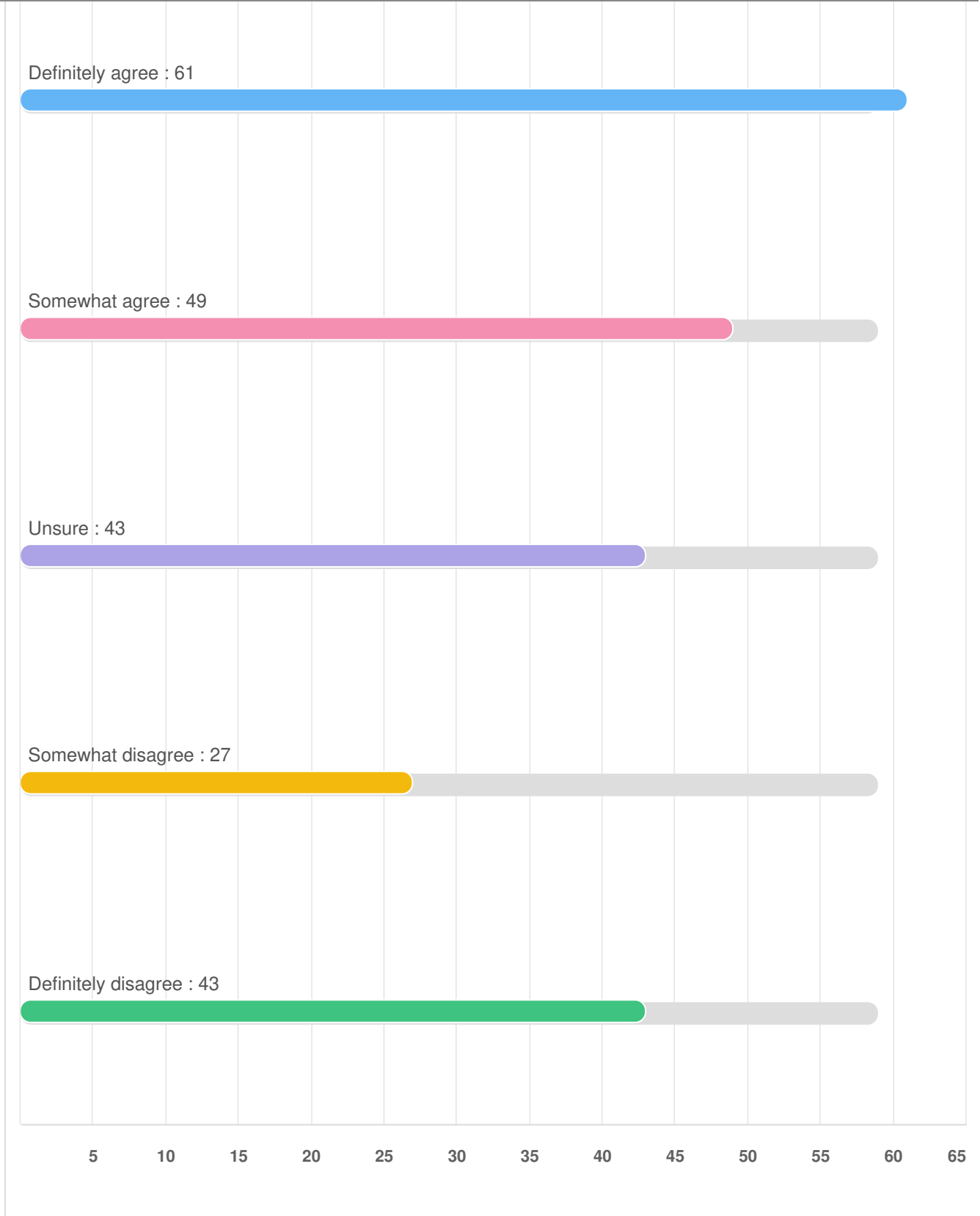


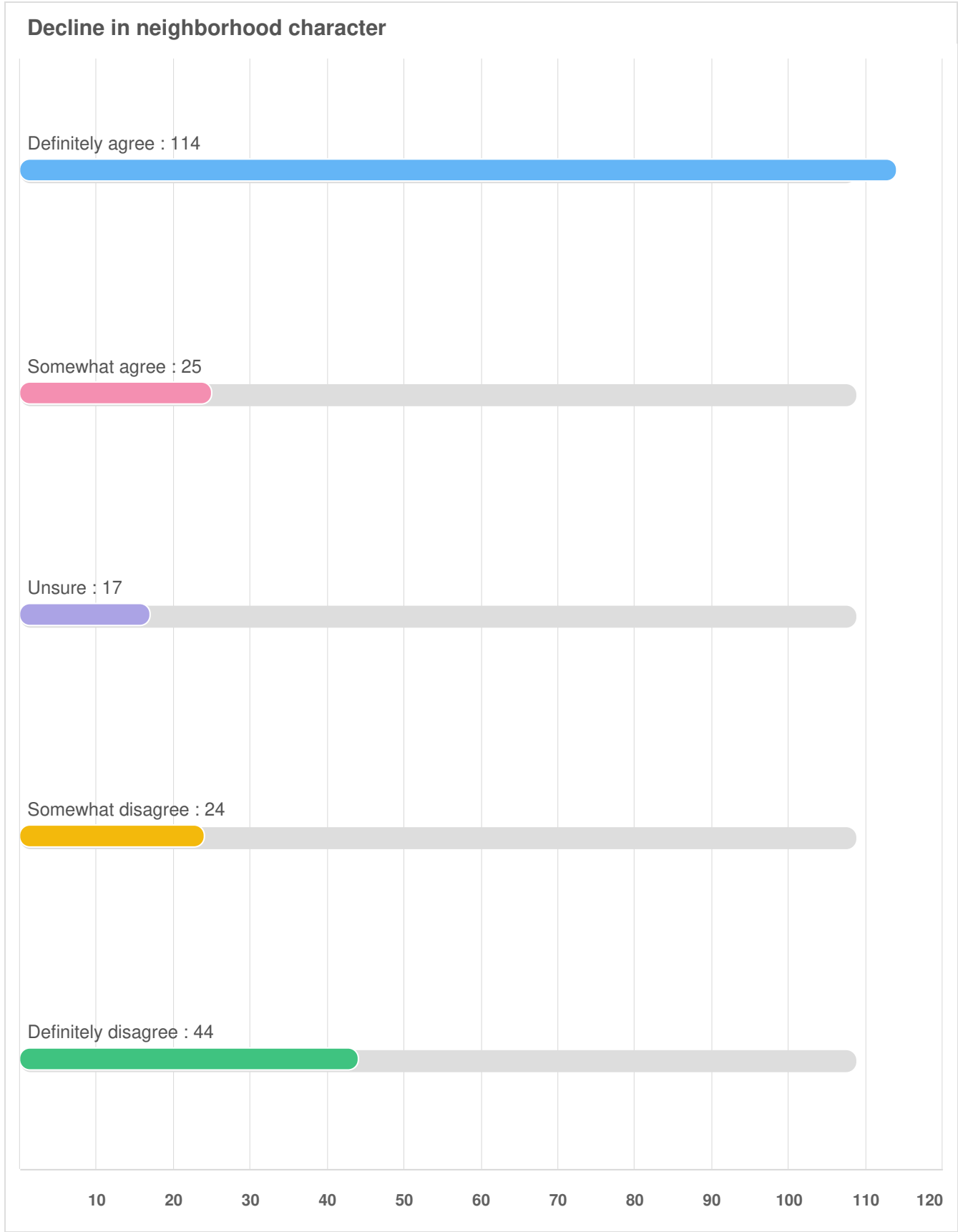
Optional question (224 response(s), 0 skipped)

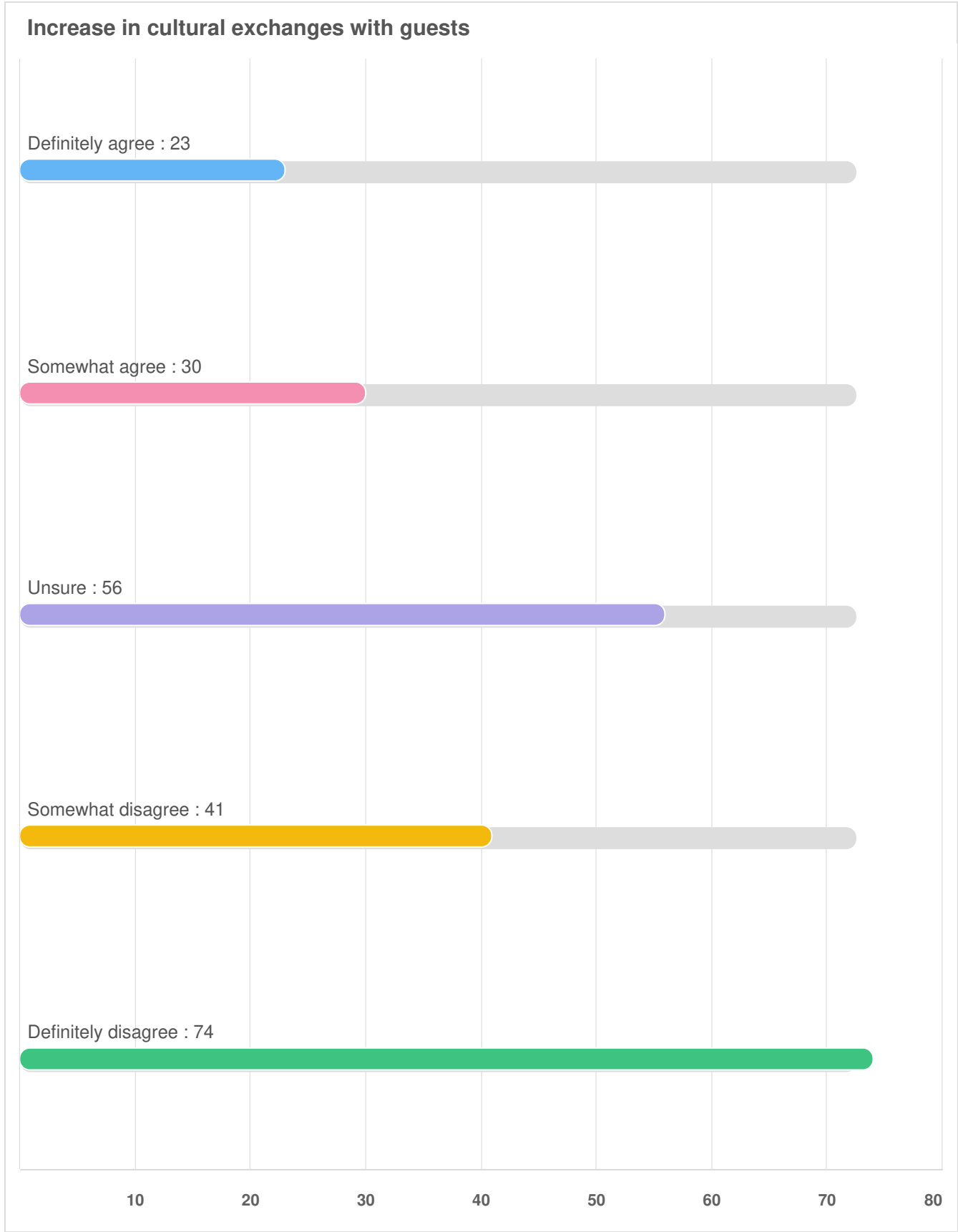
Question type: Likert Question

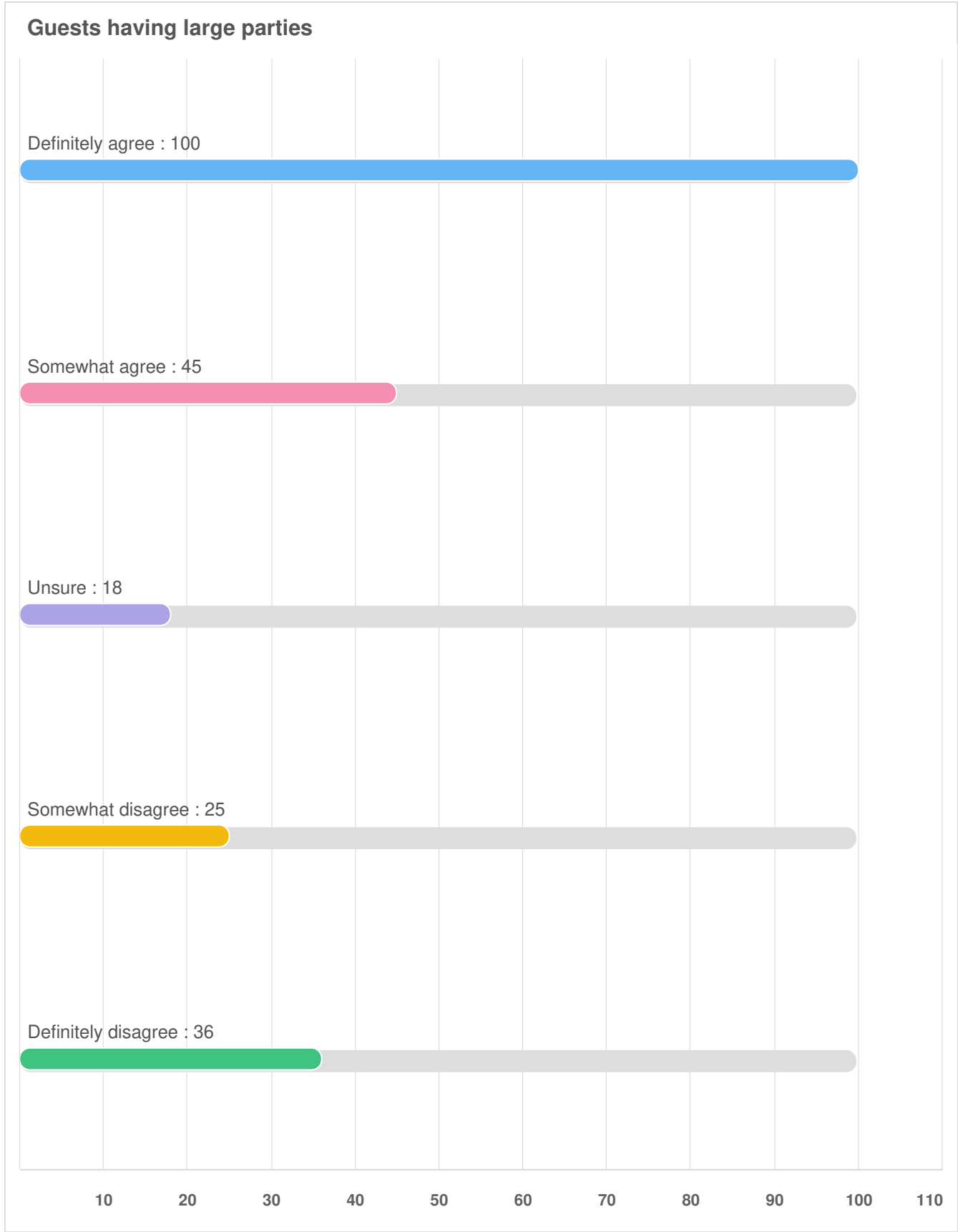
Q7 | As short-term rentals register in Denton, which of the following experiences associated with short-term rentals do you think will happen? Rank all that apply on a scale from "definitely disagree" to "definitely agree".

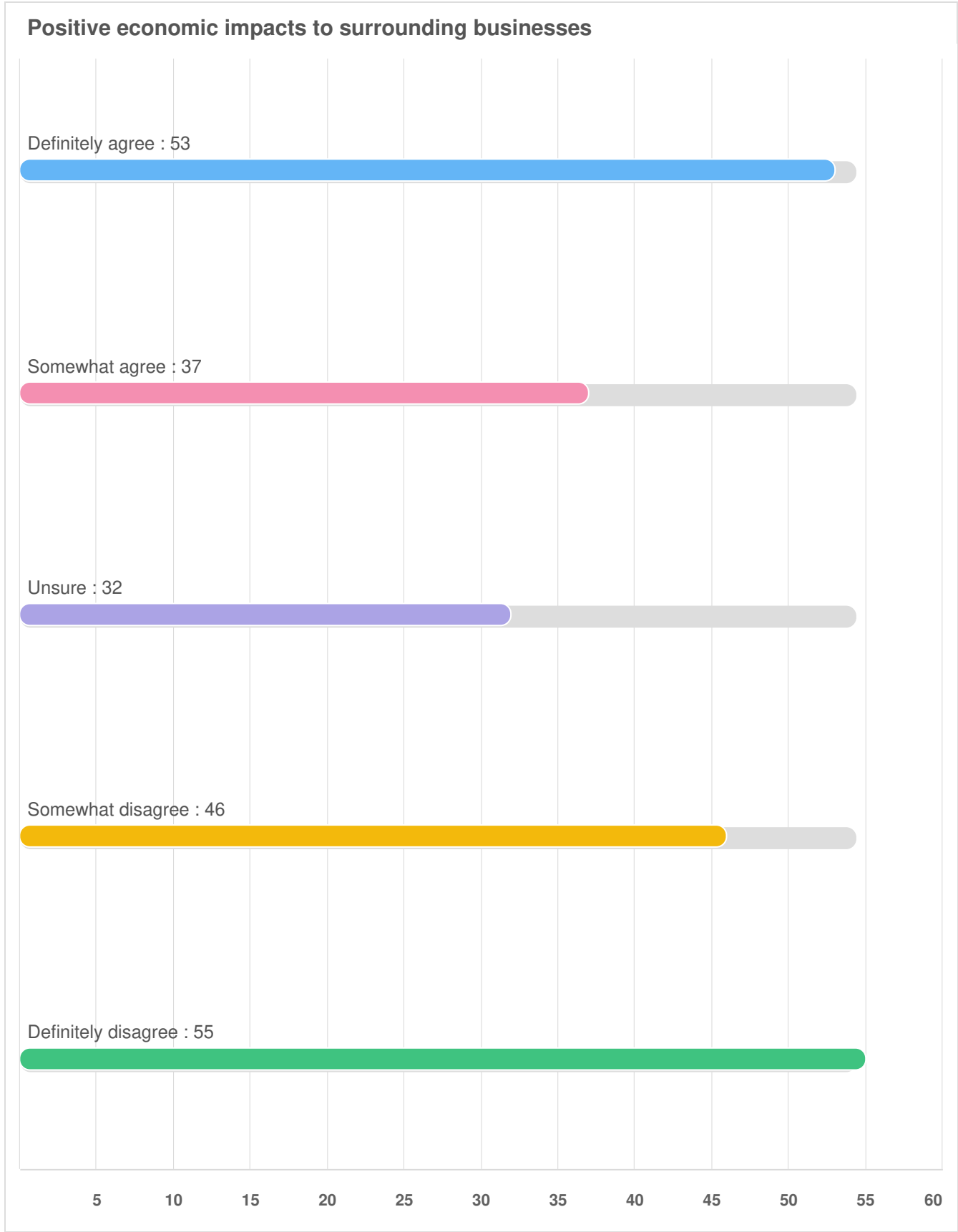
Increase in convenient lodging for guests

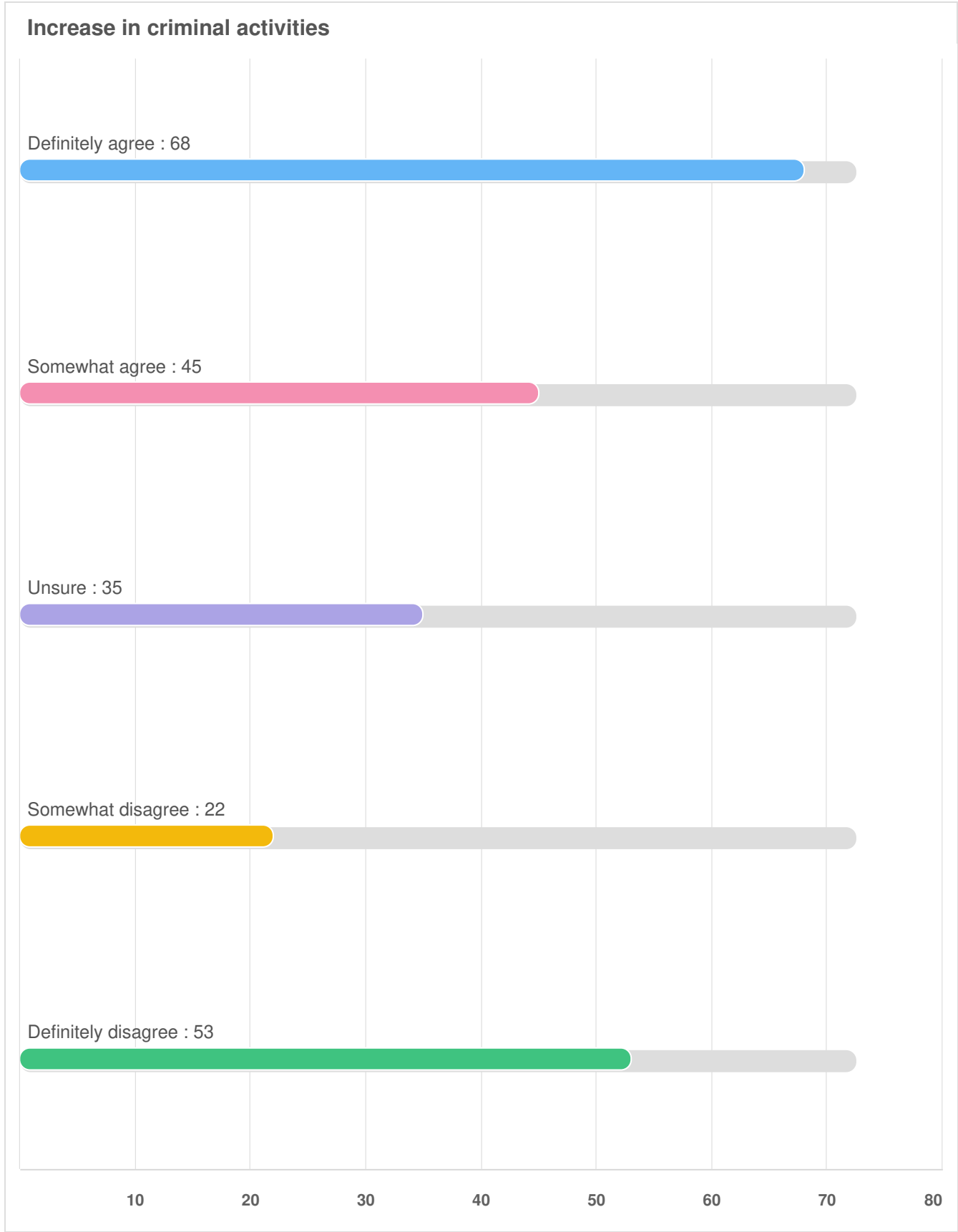


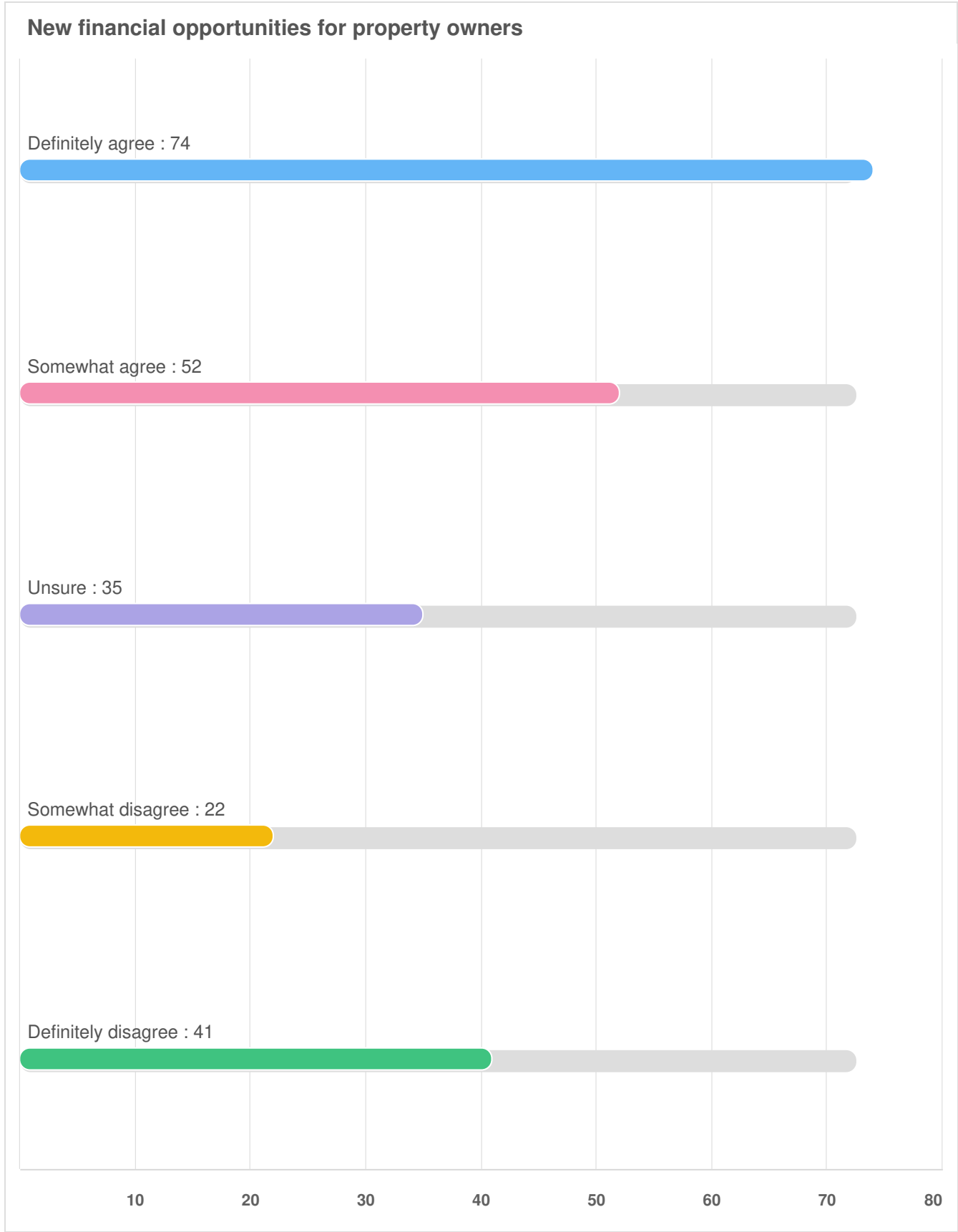


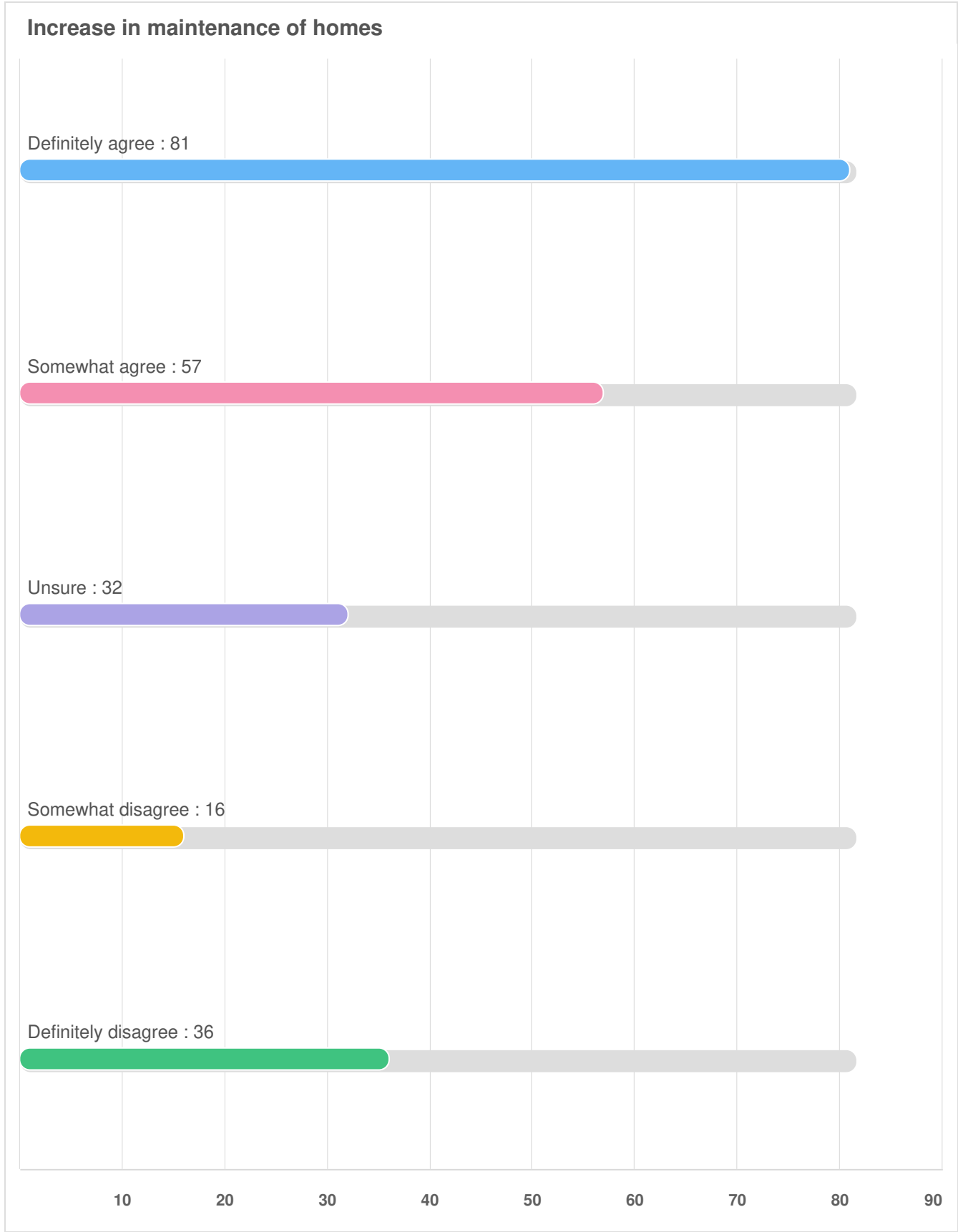


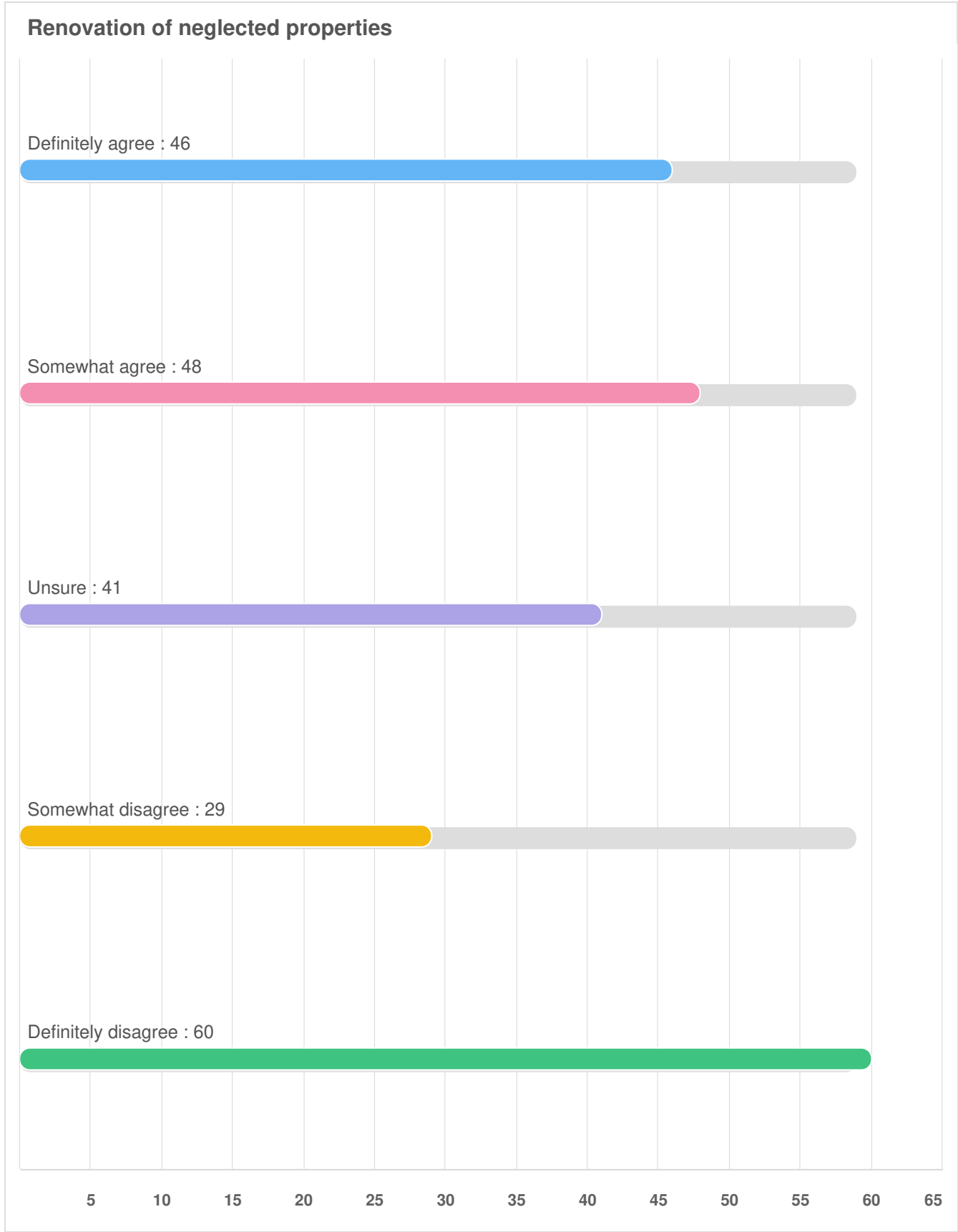


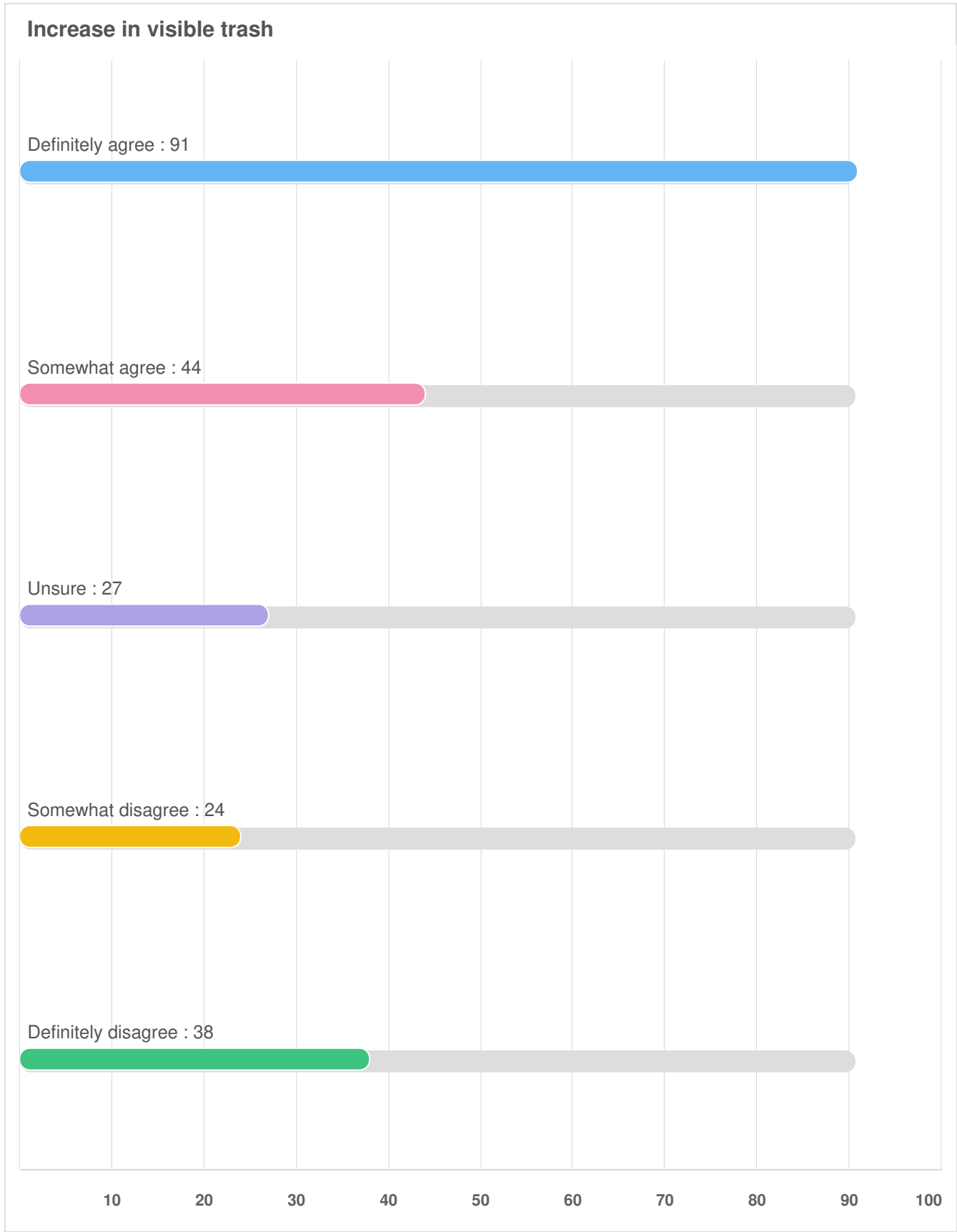


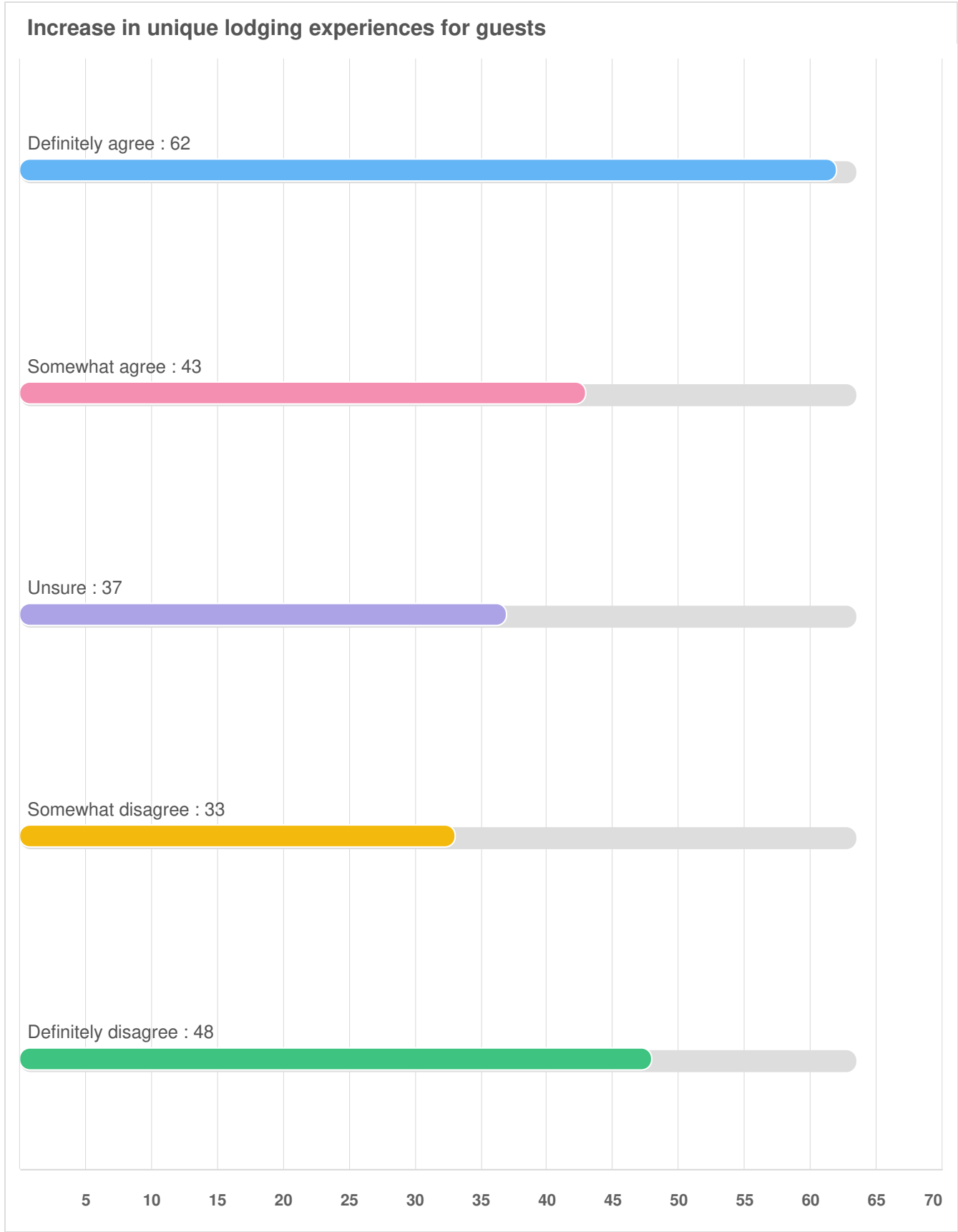


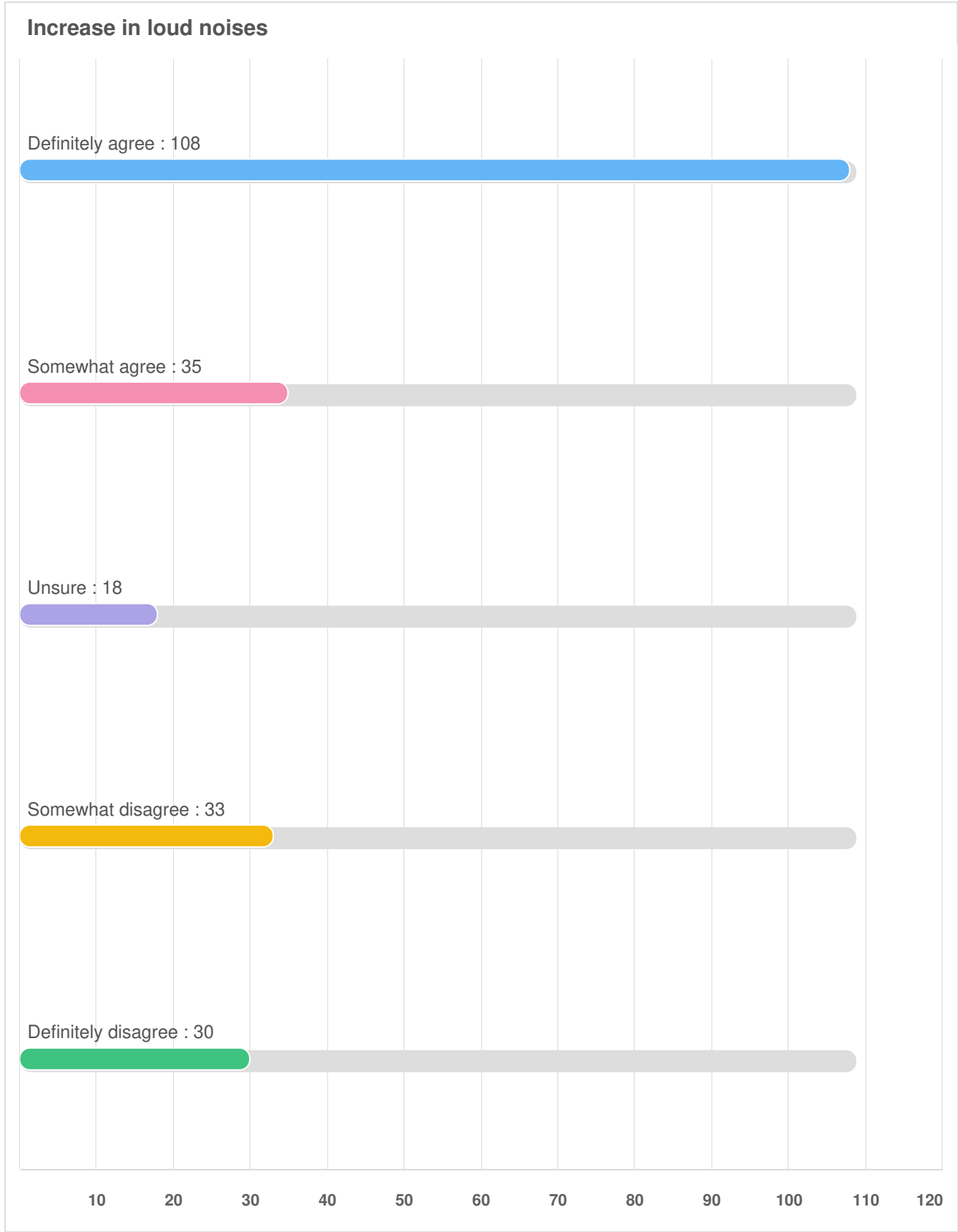


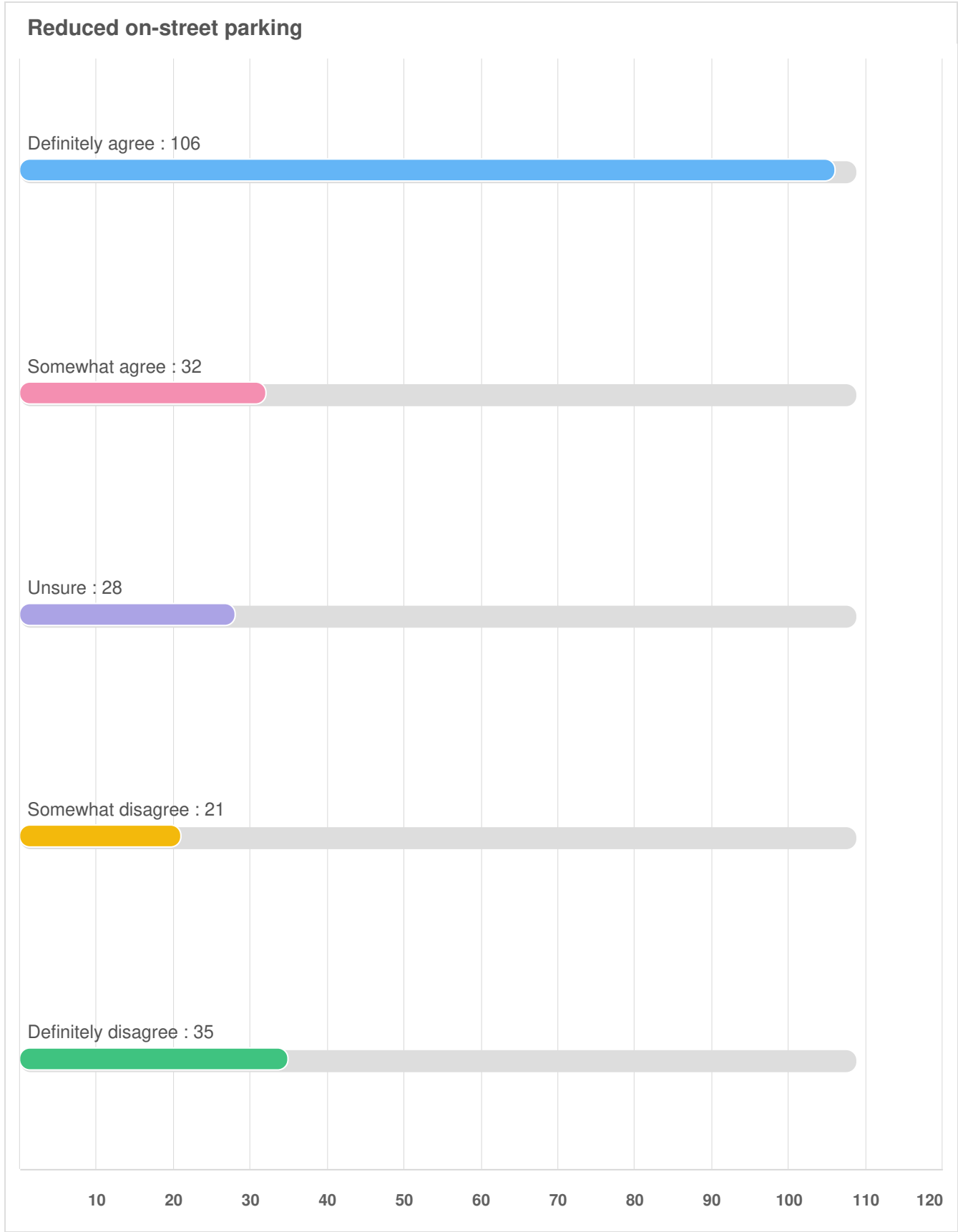


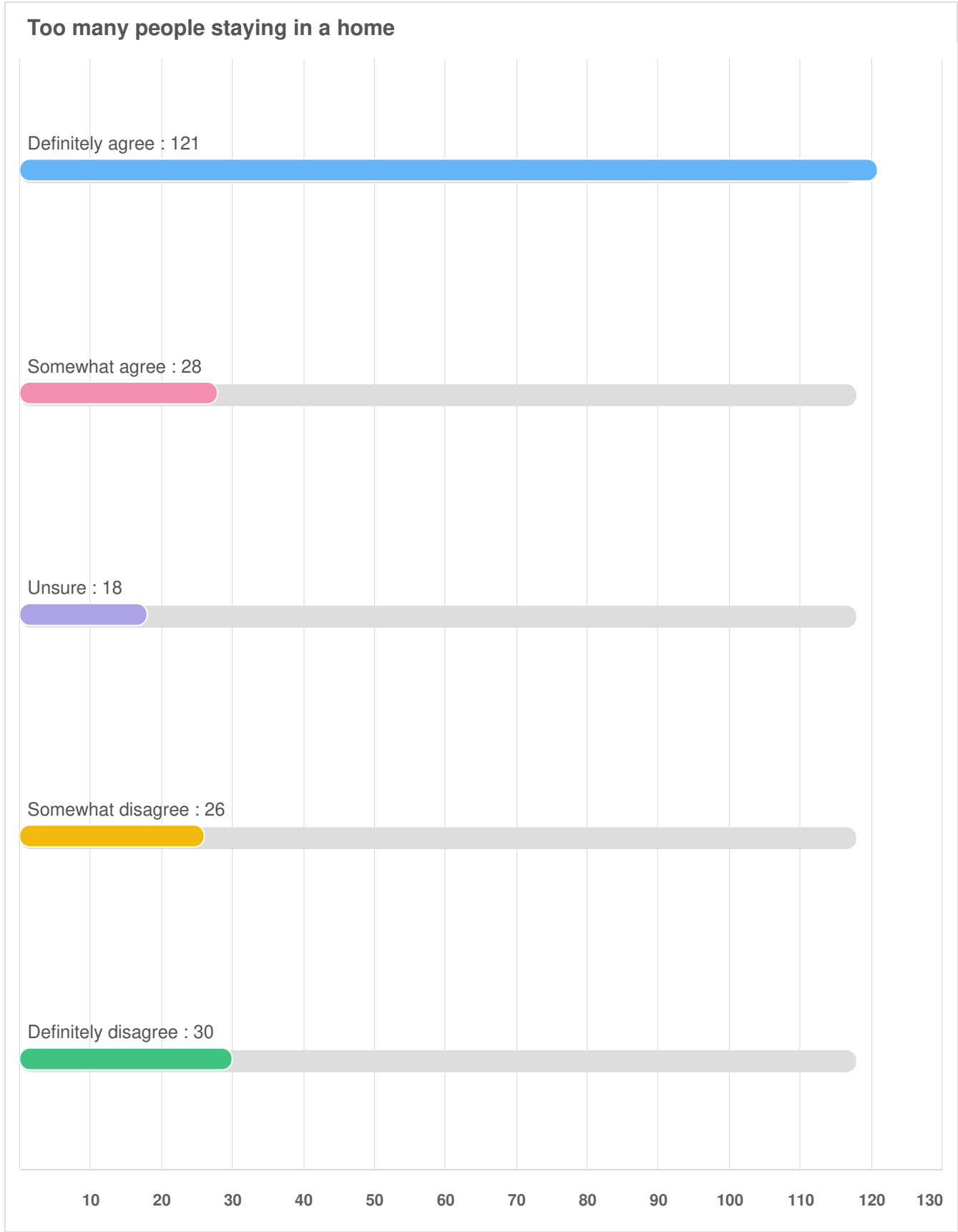












Q8 Are there experiences you think you will have that are not mentioned above? Please explain

As long as STR owners are diligent and enforce their rules, STR's will only have a positive impact on Denton.

Increased visits to local establishments

Homeless persons renting rooms. Guests watching residents as they try to live their daily lives

Cheaper prices for travelers. Lower inflation. Help small business.

One big downside is that it will push rents up by decreasing the supply of long term rentals. This will adversely impact renters who live and work year round in Denton.

I believe that people who manage multiple short term rental properties will make affordable housing less available for residents and people who really need a place to live.

Serving out-of-town guests as ambassador for Denton

More accidents, decreased owner occupied homes, increased out of town investment, loss of character of neighborhood

This is a residential neighborhood, not a commercial one which is where these HOTELScalled short termed rentals....are located. These are rented for reunions and parties. Why mess up your own house when you can use someone else's? True.

Our neighborhood is a single family home. Not meant for more.

Absentee landlords typically do not take care of their properties.

Decrease in student/inexpensive housing.

I do not want short term rentals!

decline in property value for established sing family neighborhoods

I believe the rental market is grossly distorted by short-term rentals operating in the city. The negative impact on affordability is immense when spaces that might otherwise be rented to long-term tenants are instead used for short-term rentals.

There are indicators of guests who could be trouble or have parties. I think educating host on the indicators would be beneficial in your process.

Short term rentals have a dark side. I worked in the industry. Prostitutes and drug dealers do business in short-term rentals. People have affairs in short-term rentals. People commit suicide in short-term rentals. I don't want this in my neighborhood

Rental properties become eyesores. No one maintains the yard, picks up trash, etc...

I did live next to a house that was being used as a AirBNB, and the noise was awful. Very disrespectful and no recourse for me.

Allowing short term rentals like this will prevent families from being able to own homes

It will decrease the availability of housing as well as affordable housing in a city that already does not have enough housing.

lowers the availibility of affordable housing for residents

My major and most serious concern is the impact on the supply of affordable homes for Denton residents. My second concern is large out-of-town corporations sucking up the housing stock, be it BnBs or

long-term rentals.

Unnoticeable. Most short-term rentals are invisible. I don't know if my neighbors are renters, owners, short-term rentals. The house next to us has been empty for two years as owners want way too much in rent which is far worse than to have empty unused homes.

The Denton housing market is already absolutely ridiculous, and people and companies buying homes to use for STR only makes it more difficult for residents to have a chance at home ownership in their hometown.

I'm concerned because people who are looking for a primary home are competing with investors who can pay cash for affordable properties and rent them out to tourists. We have too many people without affordable housing and I believe that takes priority.

An increase in short term rental properties could add more traffic through residential neighborhoods.

A lack of affordable housing for residents who live and work in Denton

greater traffic through the neighborhood

Short term rentals, like Air BNB, take rental and ownership out of the hands of people who want to live in Denton, and instead give a more expensive option than the hotels we already have for people visiting Denton.

Outside of an expectation that registration of these dwellings will increase the likelihood of oversight, I don't know what the effects would be. I hope registration creates oversight rather than advertising the viability of investment properties here.

There is no longer a sense of community and pride in homeownership.

Noise issues - people arriving late night. Parking in front of mail boxes and driveways, trash left over, increase in trash in bins

Hearing via news/online and news of situations occurring in neighborhoods that would normally not occur. This includes parties, fights (with and without guns), parking issues as well as trash.

In residential neighborhoods no idea if sex offender is temporarily there or criminal with added security risk for residents and young children walking and playing in neighborhood. Also additional vehicles parking on our narrow curved streets...dangerous.

Decreased sense of community among neighbors. Our city prides itself in having that small town feel. With a constant rotation of strangers that's hard to sustain.

Too many short term rentals causes housing prices to skyrocket into unaffordable rates for EVERYONE. It's very harmful.

An increase in residents' calls to law enforcement; a lack of response from law enforcement to residents needs; a decrease in response time from law enforcement to needs not related to str's; a decrease in property values in surrounding properties;

There are already apartments being used for short term rentals probably without property management knowledge

Increased neighbor complaints if they don't want a rental house near them.

Gunshots more often, drunks roaming the street and driveway areas, strangers in our neighborhoods, etc.

Less community nurtured in the neighborhood

No

Violence and gun violence.

Giant parties at short-term rentals can result in violence

they reduce the number of long term affordable houses

No

College and high school parties are problems

Having five or six cars and them parking in front of mail boxes and across sidewalks

More crime than we already have

Racing up & down our street has increased over the passed few years with the addition of apartments & businesses.

Decline in nearby housing value. Nobody willingly buys a family home next door to a short term rental.

Feeling unsafe

Decrease in available long-term housing both rented and owned.

All of the short term rentals that we have stayed in both in the US and abroad have definite rules to be followed.

General crime and vandalism & unwanted people prowling the neighborhood. Maybe coming back later to do harm/damage.

No

These places are needed

Yes, inappropriate parties. A friend of ours neighbors home is a short term rental and is used for pornography films, drug parties and so on

Bringing under age drinking and drugs into quiet neighborhoods.

Its the best thing for the economy.

Already experiencing problems with a single short term rental on our street. Party goers parking everywhere & walking to house

na

Making new friends with the hosts.

I think STR's would bring problems to residential neighborhoods

Because VRBO and AirBnB use property review rating systems, property owners must stay on top of maintenance to avoid negative reviews that impact booking.

Most house property owners are not comfortable w/strangers in their neighborhoods, especially if they have children or are elderly.

Downtown Denton is a hotel desert. As such, every time I bring in business guests to Denton, everything they do from meetings at our offices to grabbing a drink to having dinner is done downtown - all except for lodging. AirBnBs in the area help.

Increased crime

I have had experience in a quiet neighborhood when a short term rental came in and suddenly there were unfamiliar cars speeding up and down the street at all hours of the night.

I am fully against STR in residential areas

Drug dealers, sex traffickers

Need to have a city permit for each new booking and inspect property from last rental. Short term rentals should NOT be in residential areas. Backgrounds of rentals should be checked for felons and pedophiles.

increased crime, drug,sex trafficking and drunk driving on local streets
loud parties with many people too many guests failure the
background check all guests

Decreases access to long term rentals for current residents looking for affordable housing and drives up cost of rent due to property scarcity.

Potential illegal activities, like trafficking or prostitution.

Short Term Rentals lead to decreased property values. They take away from "community living", and make neighborhoods less "friendly".

As people buy up homes to turn into short-term rentals, that means less property for first-time home buyers and others looking for starter homes. This is why I do not support the expansion of short-term rentals as convenient as they may be for tourists.

This will increase criminal activity and having different guest that are on vacation being loud will disturb the people that live in the neighborhood.

Increased celebration of Denton as a destination spot in North Texas.

the STR in my neighborhood has one of the nicest landscaping and the house is well maintained. The owner lived in this house for years and is still a great neighbor

Worried for my children and others children that play outside.
Random people, no background checks, renting rooms in homes nearby

Decline in property values for neighboring homeowners

There is not a way to police this and it will be the property owners near the STR that suffer.

Yes. As the Universities in our city force upperclassmen into apartments, as UNT has, more of the seniors and graduates will be looking for homes. We cannot fill them with vacationers and rob people of a place to live.

No

Lived next to a STR trailer that dumped gray water down the driveway.

Homeless

We've had issues with rental properties on long term and had issues.

There was no mention of the decrease in foreclosure properties that will result from allowing short term rentals . If short term rentals are not allowed many will lose a source of income and therefore possibly face foreclosure. Consider prop owner rights

The opportunity for Denton to continue to be a unique destination where other cities are squashing the same opportunity.

"Guests" are not members of the community and have short term interests that generally conflict with residents interests. Keep the hospitality industry in parts of the city zoned for commercial activity. Residential zoning should not be trespassed with

Decline in affordable housing in this city where we have an affordable housing crisis.

Less availability for long term rentals and home buyers

Lack of available housing for residents

Decreased property values, increased drug activity & crime

These experiences will depend on if private companies or individuals with multiple properties are able to do short term rentals. When the owners and operators are not part of the local community

ST rental companies I've used do an excellent job vetting guests and hosts are able to get a good idea of who is staying. I'm very respectful as a ST guest bc I don't want to lose my future privileges. ST rent is the best way to truly see a town.

Unknown people staying in homes near homes where children live and play possibly creating an unsafe environment.

n/a

increase in traffic

I think it could devalue a neighborhood, depending on whether or not the owner maintains the property and enforces the rules.

We do have a short term rental near us and it has only caused a noise problem one time with very loud music late into the night.

Upset neighbors that couldn't be pleased anyway.

There will be increases of large parties

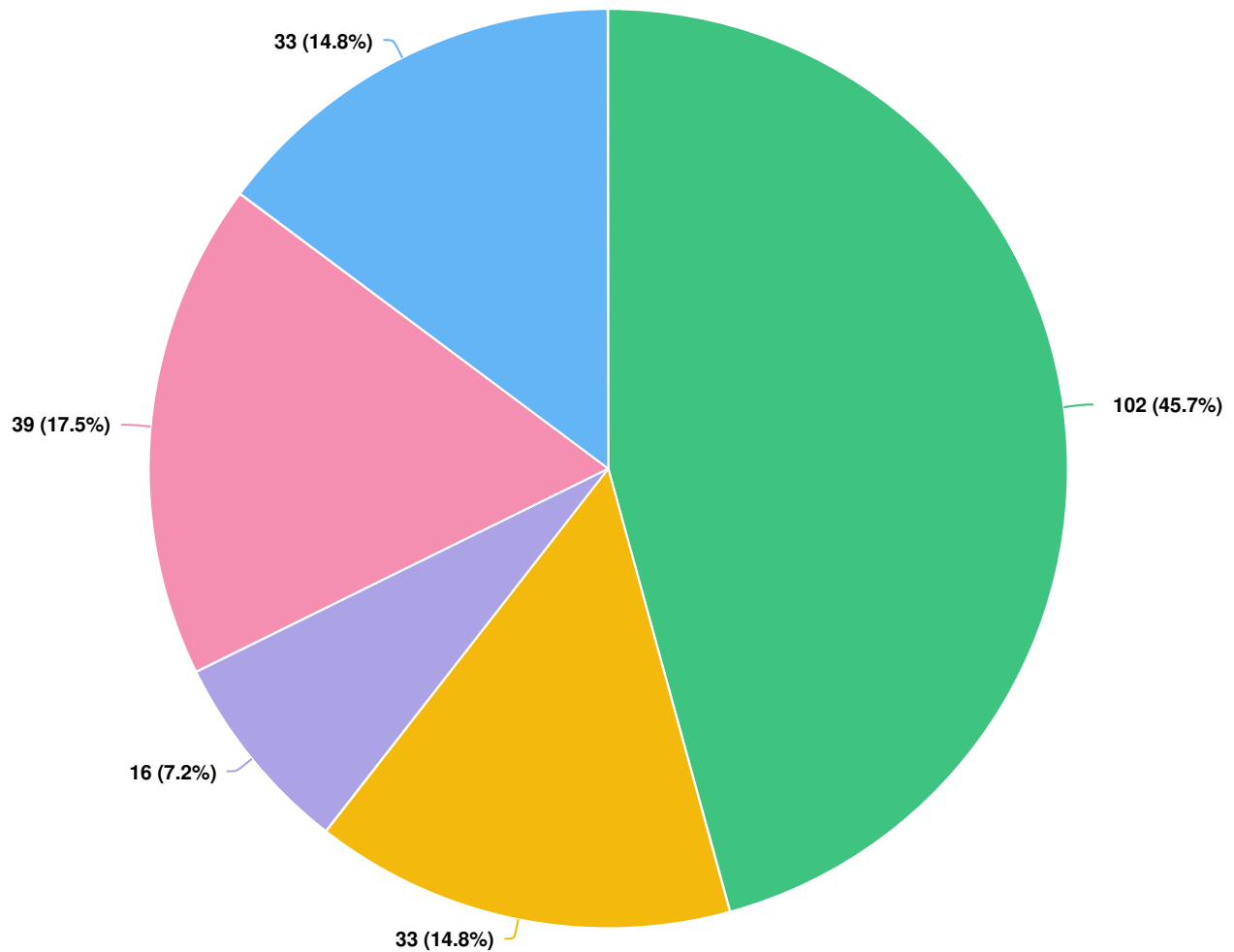
Short term renters are not concerned about the neighborhood. They are typically satisfying there lodging and entertainment interests.

decline in residential property value

Optional question (107 response(s), 117 skipped)

Question type: Single Line Question

Q9 If a short-term rental registers in your neighborhood, how would you feel?

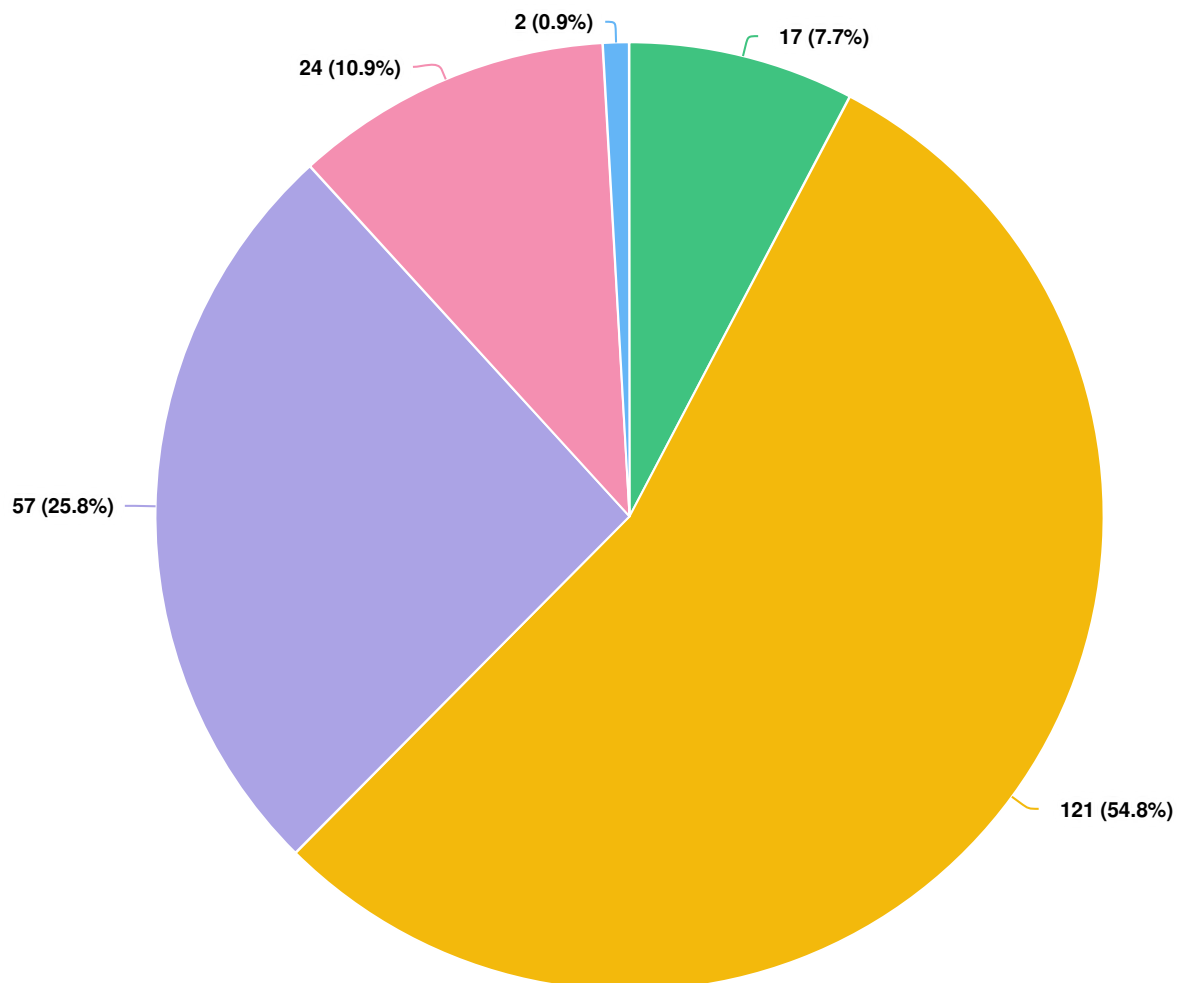


Question options

Very Comfortable Comfortable Unsure Uncomfortable Very Uncomfortable

Optional question (223 response(s), 1 skipped)
Question type: Radio Button Question

Q10 | If a short-term rental registers in your neighborhood, how do you think it would affect your property value?



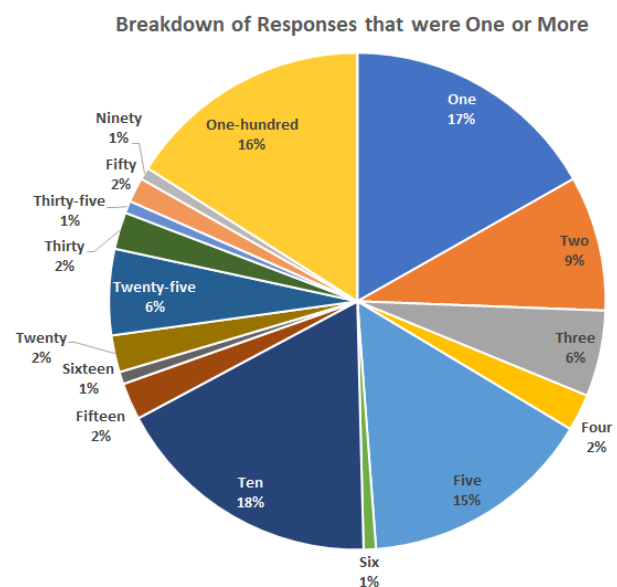
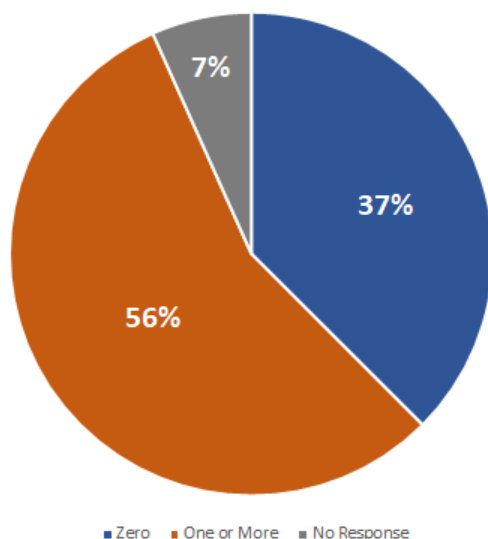
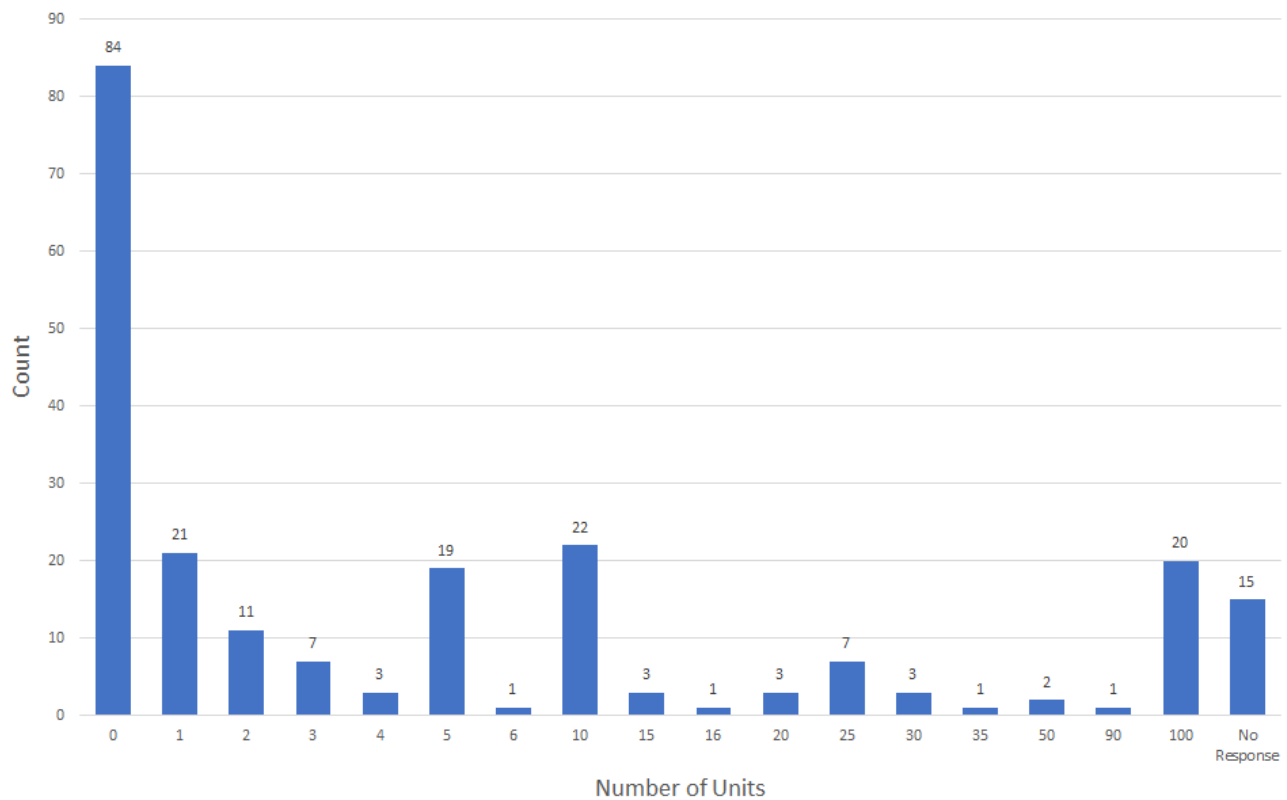
Question options

● Not Applicable ● Unsure ● No Impact/Neutral ● Decreases Property Value ● Increases Property Value

Optional question (221 response(s), 3 skipped)

Question type: Radio Button Question

Q11 Out of 100 residential dwelling units, how many residential units should be allowed as short-term rentals?



Optional question (209 response(s), 15 skipped)
Question type: Number Question

Q12 | What areas of the city would you want to see fewer short-term rentals?

****Results summarized
on pg 133**

NA

high density

All areas

Everywhere. We have a housing shortage and housing is wildly expensive now. Short term rentals exacerbate the issue.

neighborhoods

Denia, North Lakes

None.

Traditional single family residential neighborhoods

None

Historic district

All except downtown

Single family neighborhood

Downtown neighborhoods

Northeast

Residential

All areas

established single family neighborhoods

Across all residential housing

I don't have any suggestions for this question.

areas that are zoned for housing.

Neighborhoods

Short term rentals are bad. We need more affordable housing in

Denton.

Any area where home owners live in their homes.

Residential neighborhoods, or anywhere that would take away affordable housing or single family homes

All

None

all

Around valued historical neighborhoods especially around downtown and near UNT and TWU Campuses.

Everywhere, downtown, residential neighborhoods, apartment complexes

everywhere

No strong opinion

More in my area. Don't really visit other areas, so no strong opinions on what happens there.

None

Southridge

All of them

Anywhere near colleges or downtown area

I haven't seen many in Denton so I can't answer

Denton

Lower ses neighborhoods

everywhere

most

All of Denton honestly. We need as many houses available for actual residents to able to rent and live.

residential neighborhoods

In HOA occupied neighborhoods and communities.

Single family residential neighborhood esp near K-12 schools

Suburbs, near schools and children areas

My neighborhood

Anywhere outside of downtown. Keep them close to business.

Residential neighborhoods.

All areas

Denton

Residential areas around the UNT and TWU campuses

In the suburbs

Everywhere

I feel that as a college town Denton should not allow any short term rentals and should solely rely on new and existing hotel infrastructure.

All of them

In neighborhoods

Neighborhoods. Short-term rentals have no place in residential neighborhoods. Residents in neighborhoods have reasonable expectations of peace and quiet and the stability of property values that go with established neighborhoods and long-term occupation.

All over

All residential neighborhoods

None

Hotels are are for short term rentals, our neighborhoods are not.

Residential neighborhoods

Residential areas more than a mile from city center

ALL

Everywhere

Area adjacent to Rayzor Ranch, residential areas in the northeast part of town.

Denton

All areas

Residential Areas outside 288

None should be allowed in residential areas.

All

East side

All

Single family homes

The whole city

Near schools.

Most! I prefer they be removed from residential areas. We stayed out in the country.

All areas. No one wants to be nearby these homes

Any residential neighborhood

Outer parts of the city

All areas

All suburban/neighborhood areas.

Entire city

Neighborhoods, w/10 miles of any schools. Basically I don't see short term rentals as necessary in this area at all.

N/A

Neighborhoods

NA

Old North Idiots Hill

All areas

Denton city limits

would like all banned.

In residential neighborhoods. These are like hotels.

Nonr

Single family dwellings

should not stop anyone or any place for m renting out their own property

South ridge

Outskirts of town

University areas

residential

Residential Subdivisions

any where near or around the Square, ie, 5-10 block radius

Next to schools

South Denton

Residential sub divisions

All

Denton

None.

Let the market figure this out. We have many attractions in this town that will be a driver for this - 2 large universities, downtown, etc.

Residential aread

All areas. Use a hotel.

Corinth

Residential neighborhoods

None

There should be no short-term rentals in areas or neighborhoods that are not common tourist attractions or near a major economic hub like the Denton Square, UNT, TWU or the finished Rayzor Ranch development.

Not in residential areas

all areas

All of them

N/A

Everywhere.

Anywhere outside of tourist corridors or convention center district.

Single family residential

If there is a community that is ALL short term rentals, it would be fine, as it's a common interest. Maybe an investment group or homebuilder could build a small community of those types of homes near the north end (university access/location).

I would like to see fewer short-term rentals all throughout Denton

None come to mind.

None in neighborhoods. This is a commercial business and shouldn't be allowed in residential areas, only areas zoned for commercial

All are welcome

na

I think all areas of Denton could use the aesthetic upgrades brought by upkept short term rental spaces.

Residential neighborhoods

All

In high crime areas and run down neighborhoods bc this will give a bad opinion of Denton and the guest may not return.

Neighborhoods not in the general area of downtown/colleges

Residential areas around schools

South of Southridge, north of 380

Residential single-family neighborhoods.

Near UNT

Downtown, near businesses, residential areas

Anywhere that the property owner does not live. Allowing non-residents to manage short term rentals is asking for neglect

I think they can be wherever

All of Denton

Areas with lower value homes, so that there are more available to purchase to live in.

No preference

All residential neighborhoods within the city limits

residential neighborhoods

Single family neighborhoods outside of the downtown, UNT, TWU areas

Near businesses, but not in residential neighborhoods

None . All areas of the city are located in Denton TX AMERICA!
Should be owners right as long as owners pay taxes , maintain property , and implement rules . Enforce rules vs tell AMERICANS how they may use proper they worked to obtain

Outskirts neighborhoods

None, property owners should be able to decide how to use their property

Downtown

Areas that would disrupt a positive neighborhood

No comment

There should be no limitations or special areas. All property owners should be given the opportunity to have a short-term rental without

the city interfering or requiring any registration. Private Property is Private Property as long as no laws are broken

Residential single family home areas

Residential zoning should remain residential - not commercial. Short term rentals are commercial enterprises. They do not belong in areas zoned residential.

Central denton and historical neighborhoods.

None, they should be allowed anywhere in the city

Downtown

Residential areas

any single family zoned neighborhoods

Single family residential neighborhoods

Wherever long term housing is needed

I don't see an issue with them anywhere, if the owner is managing or having a management company handle it.

Residential near schools

Close to elementary and middle schools

Country Lakes Community

All

Any in HOAs

established neighborhoods, residential neighborhoods with little traffic
and few rentals currently

n/a

Southridge, Forrestridge and areas south of there

Areas immediately adjacent to a public school

none

residential neighborhoods

Downtown

Na

Apartments should not be allowed to be turned into short term rentals

N/A

Residential neighborhoods will suffer with the current and proposed
requirements the COD has applied to this business activity.

Denton

single family residential neighborhoods

Residential neighborhood

Optional question (183 response(s), 41 skipped)

Question type: Single Line Question

Q13 | What areas of the city would you be fine with seeing more short-term rentals?

****Results summarized
on pg 133**

anywhere near downtown, UNT, and TWU

downtown and close to universities

None

None. Short term rentals reduce the livability and desirability of a city. They increase housing costs while simultaneously straining housing supply. We can look to Austin for examples of this.

All areas.

near the square

Downtown

Everywhere. Anytime a short-term rental is created, the property was often times a very neglected rental property that was behind on maintenance and upkeep, with property owners simply interested in

making nominal rents in exchange for zero effort.

downtown

All

On the square itself

Downtown square

None

None

Southwest

Downtown

None

established business areas

Keep short-term rentals to hotels, motels, and b&b businesses

I don't have suggestions for this question. I think a few short term rentals all over Denton is beneficial for the community with the universities and local businesses.

short-term rentals are a business and should be in commercial zones like a hotel.

Nowhere

Short term rentals are bad. We need more affordable housing in Denton.

All

Apartments or somewhere in cement city.

Ideally nowhere considering there's a affordable housing issue, but if I had to pick then high income high density residential areas like higher end condos.

None

Downtown, around campuses

none

Outskirts, if any.

Nowhere we should discourage them

nowhere

No strong opinion

My area. (Downtown, UNT, and land between.)

All

None

Outskirts or closer to highways and the loop

None, more long-term rental housing is needed.

Denton

None

none

Near the downtown area

around the universities

No areas

"downtown"

Down off the square in Denton

Downtown. Right next to college campus

Downtown business area, business areas only

Closer to the center of the city where there is more things to do within the city.

Downtown

Maybe around university areas. Apartments and business locations. Should not be allowed in residential neighborhoods.

No areas

Denton

Downtown

Nowhere there are too many already

There is no area of Denton that I feel would benefit from short term rentals. We can rely on our existing hotel infrastructure.

None

Downtown areas

In the city, none that I can think of. Large ranches, cabins near the lake, or property in areas dedicated to vacation or recreation are the only types of areas where short-term rentals would be appropriate.

In the neighborhood of the two universities

Outside of denton

Downtown - walking distance to the square

Downtown areas; apartment complexes

None, they can go to a hotel who has security to deal with parties.

Commercial or downtown areas

Homes within a mile of city center

NONE

Next to the mayor's home.

Closer to the Square and to campus

Denton

None

Anywhere

I don't know

Near UNT, TWU, downtown, rural

Facilities in downtown Denton that are in a business zone.

None

None

None

Apts

None

Most areas.

Outer skirts of town or downtown lofts.

None. Devalues surrounding homes. Homes are generally the largest financial asset of a family why impact them with a short term rental next door.

Downtown

None

No areas

Urban/downtown only

None

Neighborhoods

None

Neighborhood

Downtown

I don't think we need any more than we have now.

Not sure UNT, Downtown

None

None

would like all banned

Business district

Denton, Corinth

Areas with parking.

Downtown

Downtown

Downtown

near downtown

1

anything that's at least 5-10 blocks from Square

Denton, TX 76201, USA

Downtown area and adjacent to Universities

Condos/apartments

None

Denton

All.

Downtown is a hotel desert and short term rentals are helping fill the void of where people actually want to be in Denton.

Downtown

None

None

Commercial properties

any

Near or around major tourist attractions or major economic hubs like the Denton Square, UNT, TWO or the finished Rayzor Ranch development.

None

none

None

Anywhere

downtown

Nowhere.

Downtown square. On college campuses.

Downtown near shops and restaurants

Near the Universities, north side of town.

I would not like to see more short-term rentals

Around the square area

Anywhere is fine.

Commercial zoned areas, not residential zoned

All areas

any

Anywhere!

I don't want to see MORE short-term rental anywhere. Unless it was tiny homes in a designated area.

None

All except run down and high crime areas

Downtown, and around the colleges

Downtown around the square, and by the universities.

Near universities and downtown

Downtown, near college campuses.

None

I don't want to see more short term rentals, but I'd have to say the suburbs maybe

In areas where resident homeowners manage the rental. Possibly also industrial (lightly populated) areas.

None

Areas with higher value homes

No preference

None

further from the already congested town center

Downtown, near UNT and TWU

Business

Any/All Denton will lose residents/ property owners if they are not allowed to use their property as they wish resulting in less tax dollars and lower property values throughout.

Downtown and near unt and twu.

Any and all

None

Downtown

No comment

Should be open to anyone who owns property in Denton

Apartment neighborhoods

Areas zoned for commercial activity.

I don't think Denton needs short-term rentals.

All

Outskirts of city, if any

Nowhere

none

None, we are not a resort community!!! these accessory structures going up around Denton that are being used for short term rentals do not belong in a single family neighborhood. Dallas has banned it, why cant Denton. Quit building on every inch of land

Any area

	Downtown
	Downtown, close to highways
Round	None
	Non HOA
	any area where there are many rentals already; around campus?
	downtown, near unt
	Close to both universities and downtown. Many of these are already rentals and are close to the most popular attractions
	Anywhere in town
	any
	downtown
	Neighborhoods
	All
	Suburban area
	The older denton neighborhoods

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Central business district and multi family properties such as
apartments.

N/A

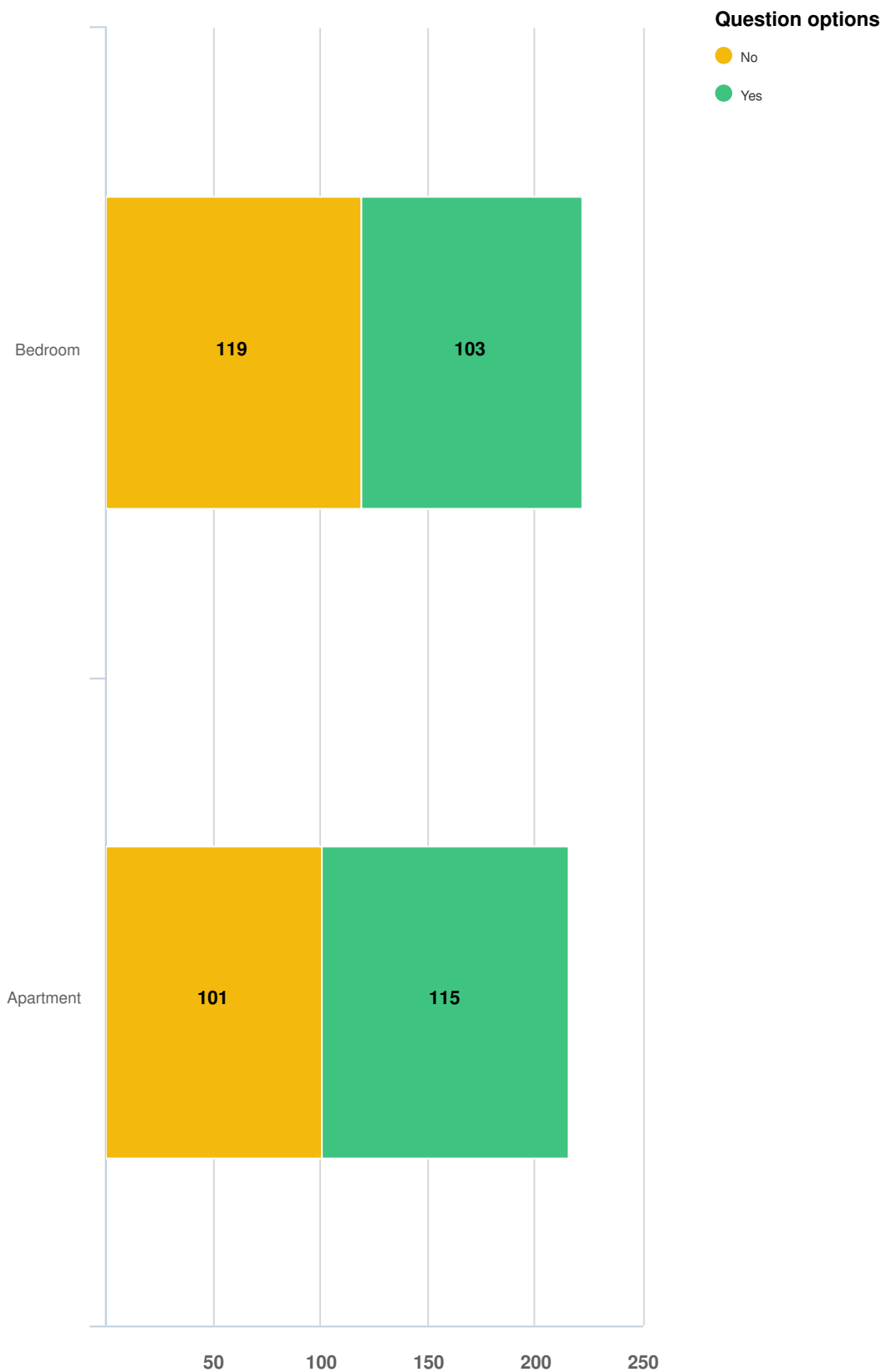
apartments

Downtown

Optional question (186 response(s), 38 skipped)

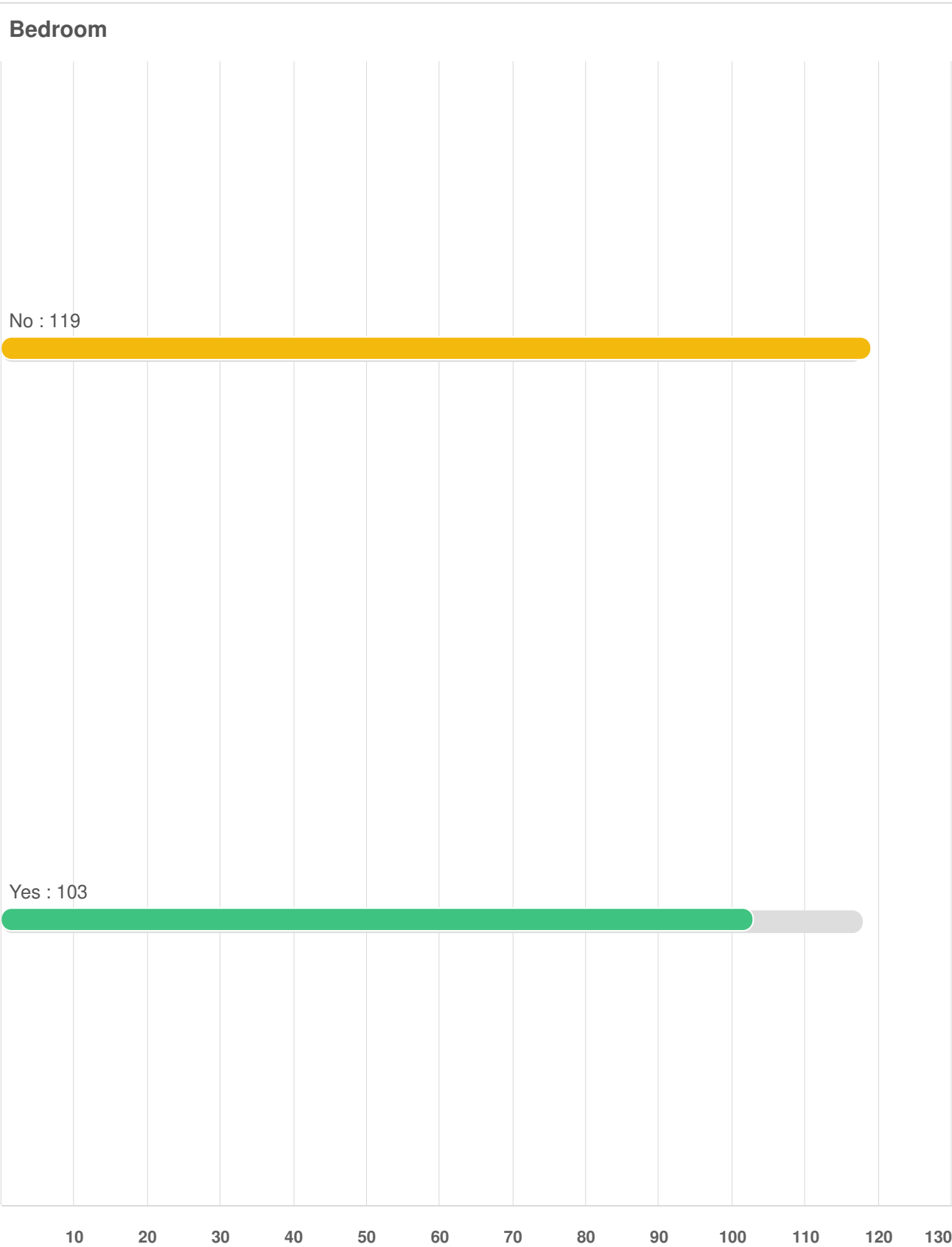
Question type: Single Line Question

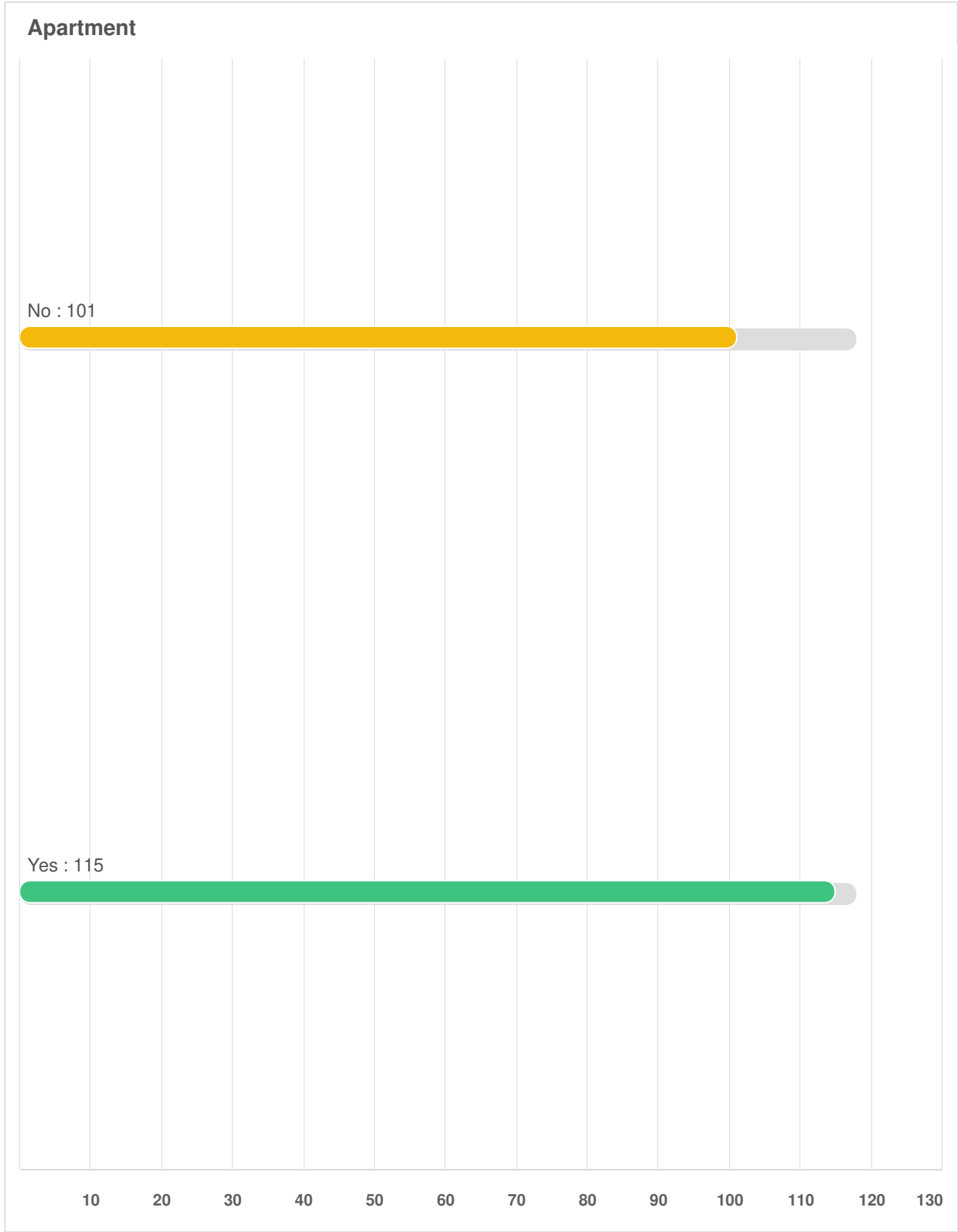
Q14 Should the following types of dwelling places be allowed as short-term rentals?



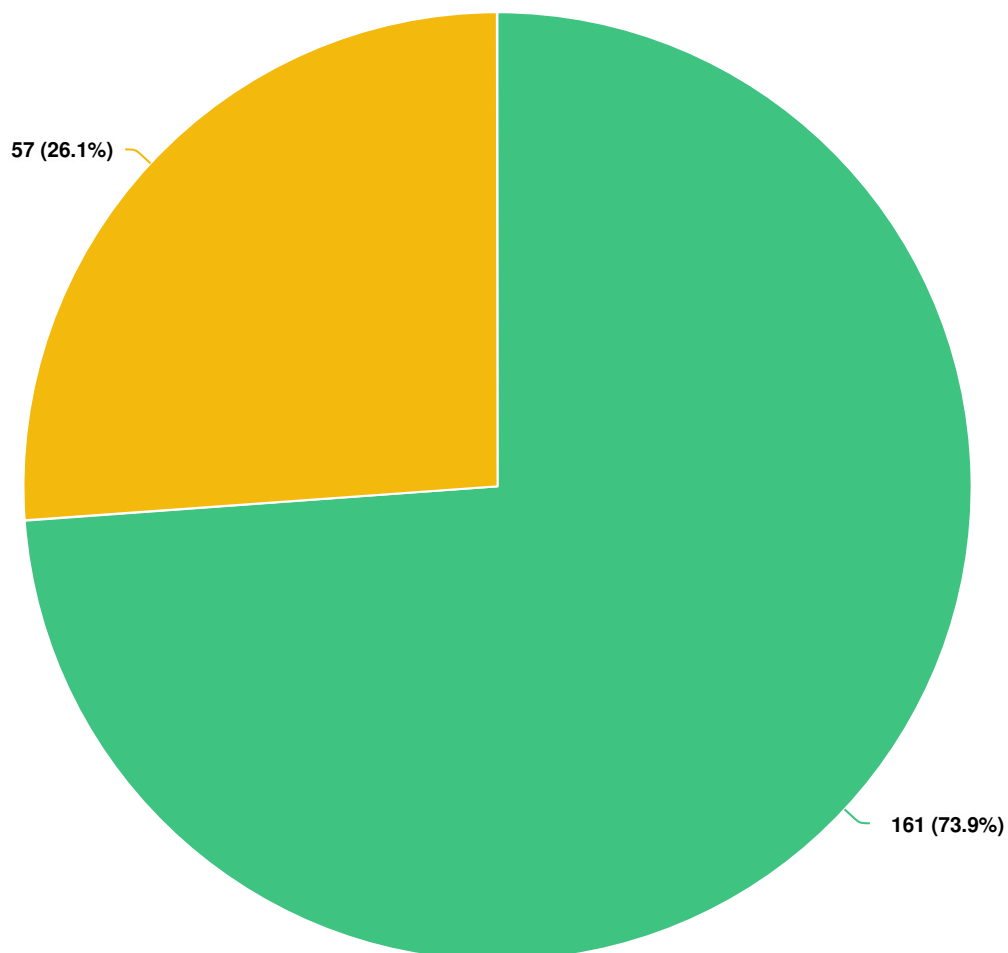
Optional question (222 response(s), 2 skipped)
Question type: Likert Question

Q14 | Should the following types of dwelling places be allowed as short-term rentals?





Q15 Should there be a maximum number of short-term rentals an owner can have?

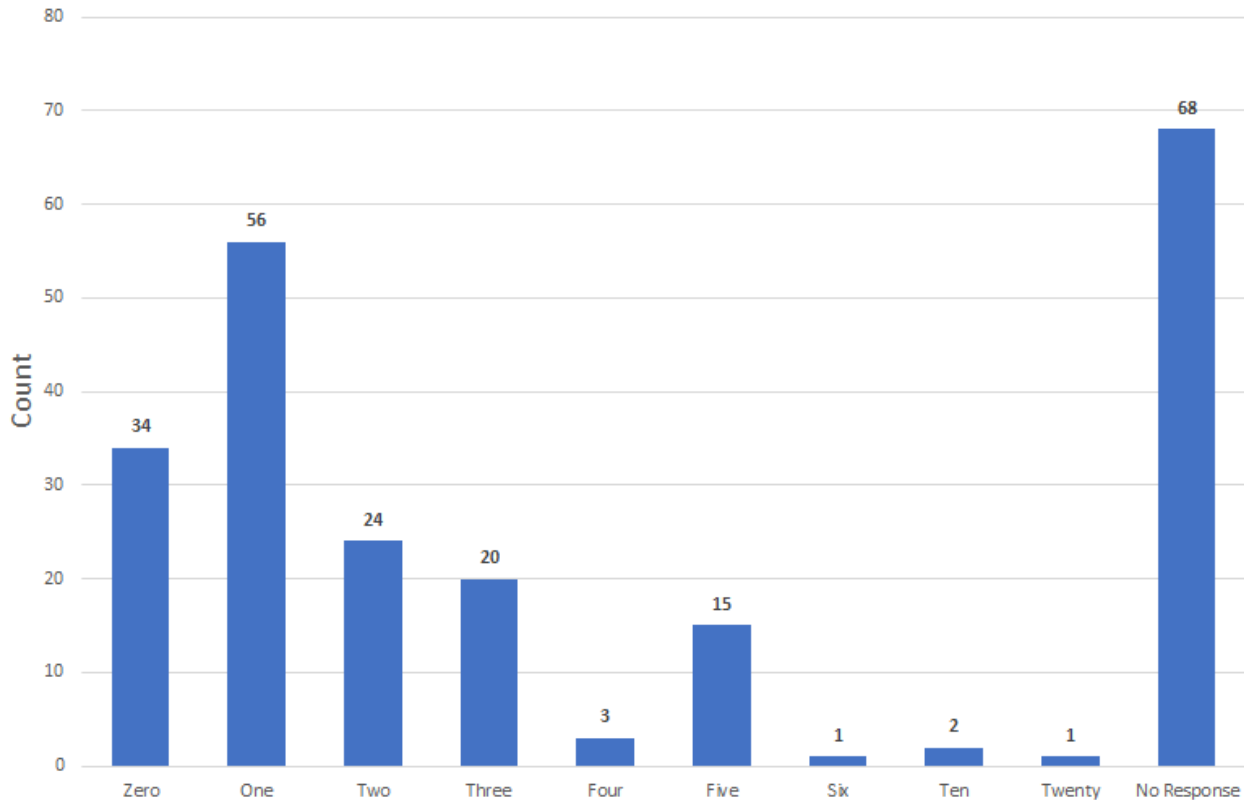


Question options

☐ No ☒ Yes

Optional question (218 response(s), 6 skipped)
Question type: Radio Button Question

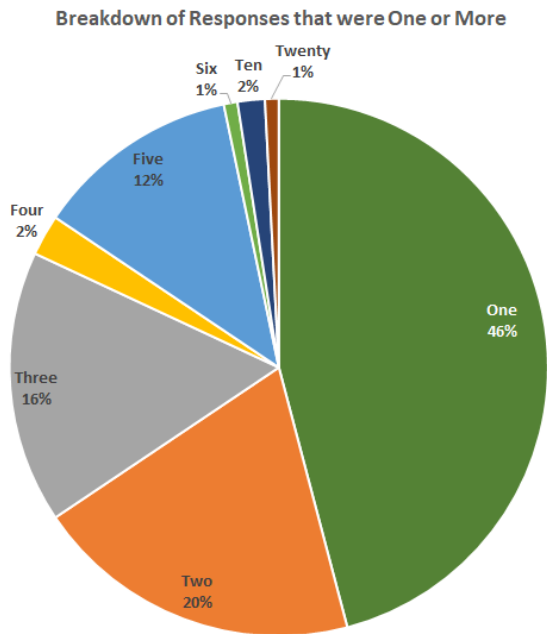
Q16 | If yes to the previous question, how many properties?



15% responded zero

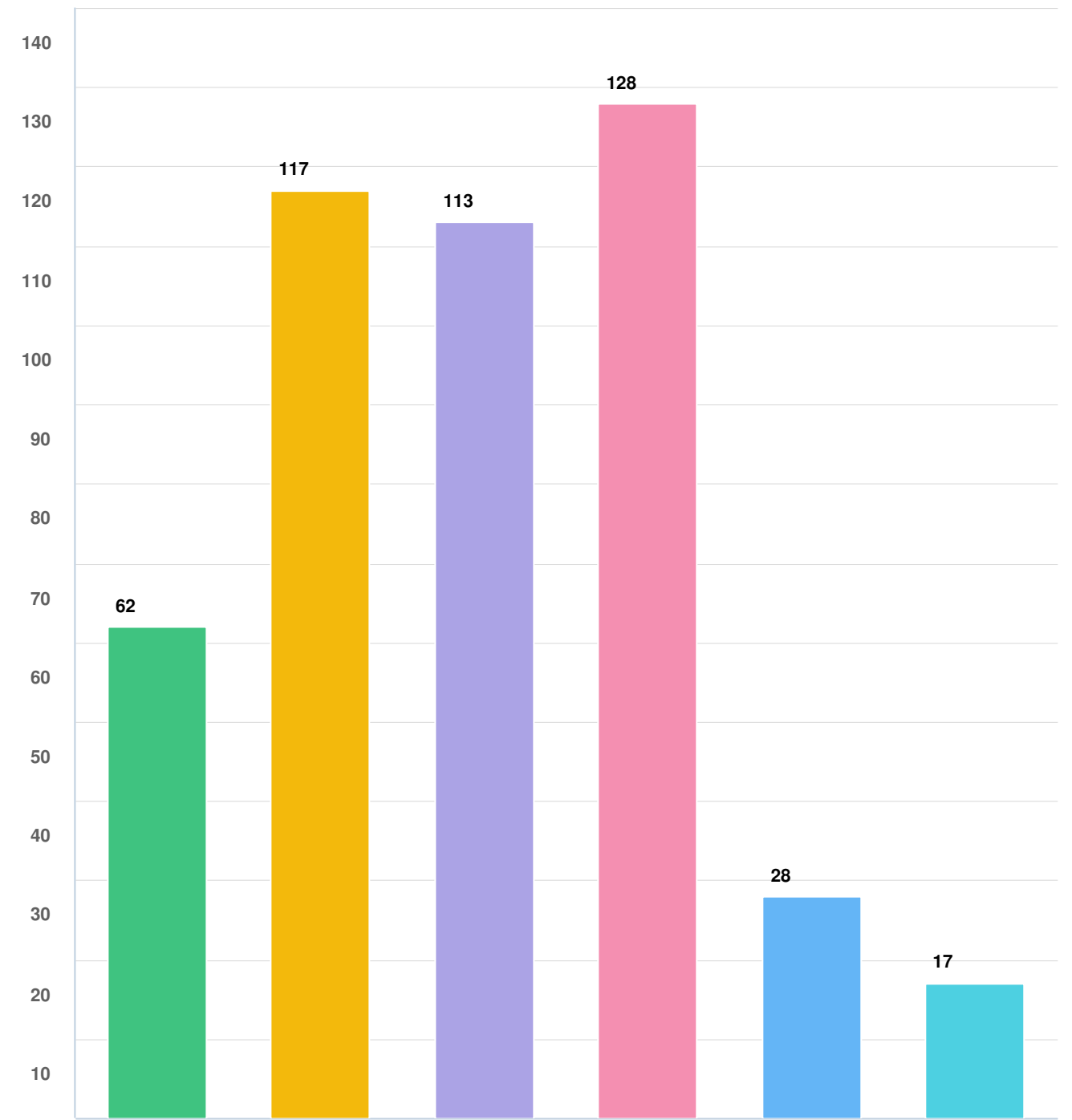
55% responded one or more

30% no response (includes "No" responses to Q15)



Optional question (156 response(s), 68 skipped)
Question type: Number Question

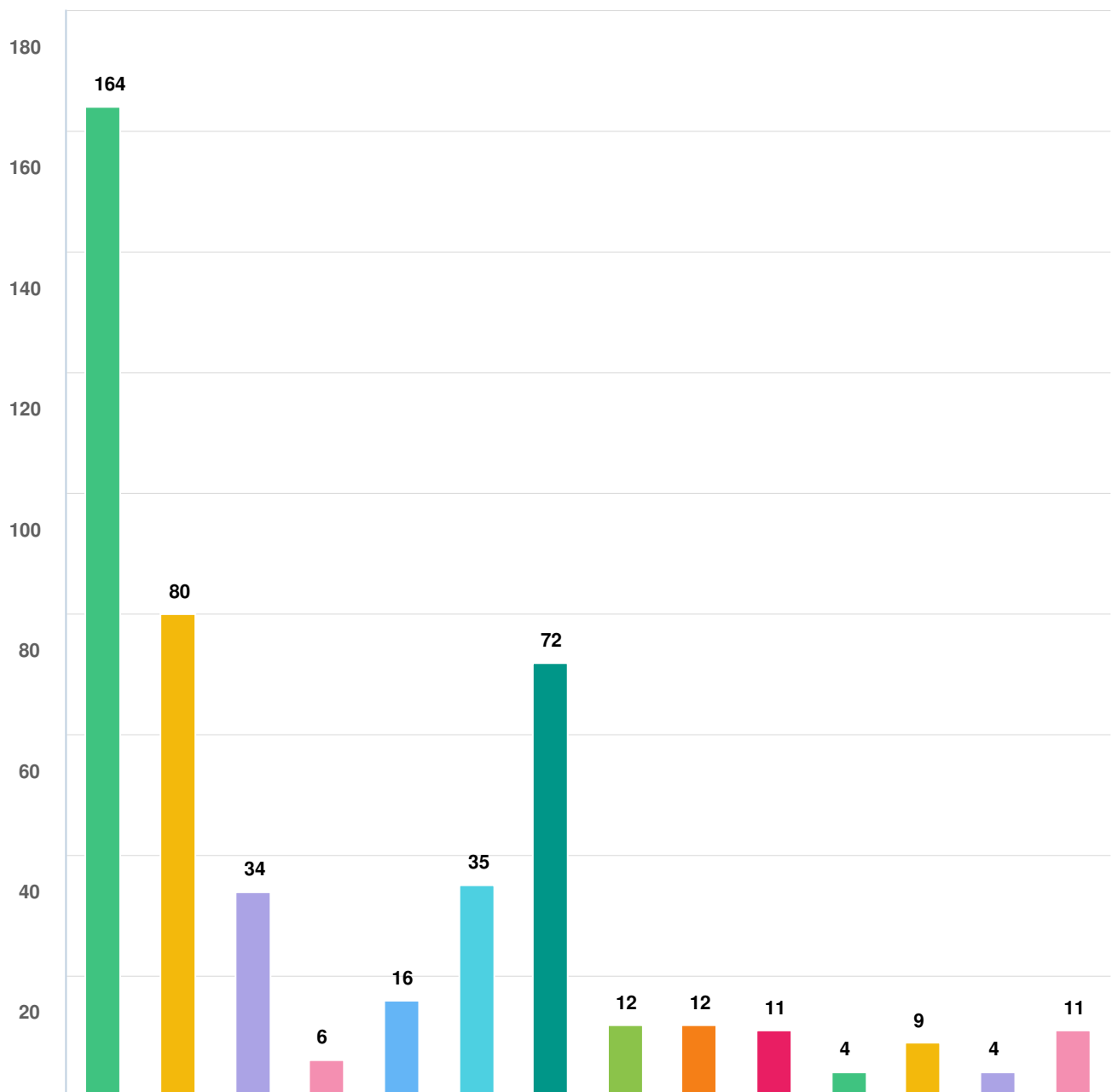
Q17 | If concerned about parking, which of the following solutions would be acceptable?
Check all that apply.



- Question options**
- Other (please explain)
 - Not concerned about parking
 - Require owners to provide parking regulations to guests
 - Require owners to advertise the number of available parking spots on the property
 - Require all guest parking be accommodated on site
 - Require one parking space on site per bedroom

Optional question (218 response(s), 6 skipped)
Question type: Checkbox Question

Q18 How would you describe yourself? Check all that apply.



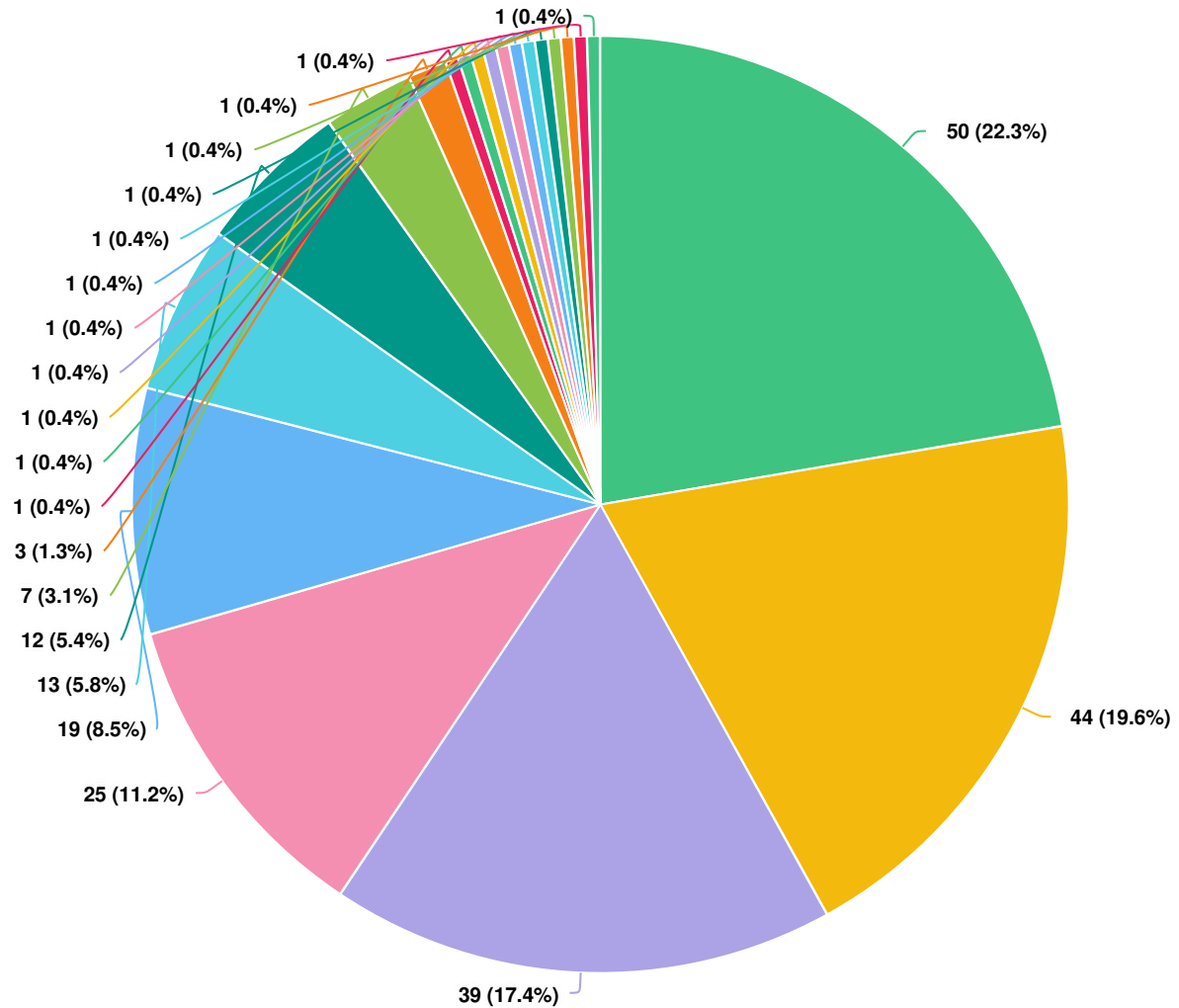
Question options

- Other (please specify)
 ● I manage a short-term rental in Denton
 ● I own a short-term rental in Denton
- I am in the hospitality industry (e.g. hotel professional)
 ● I am a real estate professional
- I own residential property in Denton, but do not reside there
 ● I am a student in Denton
 ● I work in Denton
- I own a business in Denton
 ● I reside outside of Denton, but visit often
- I live with family/friends in Denton but do not pay rent
 ● I am a tenant at residential property in Denton
- I reside in a HOA in Denton
 ● I own and reside at residential property in Denton

Mandatory Question (224 response(s))

Question type: Checkbox Question

Q19 Please enter your zip code.



Question options

- Plano, TX 75093
- Highland Vill, TX 75077
- Oak Point, TX 75068
- Flowermound, TX 75022
- Flower Mound, TX 75028
- Sanger, TX 76266
- Krum, TX 76249
- The Colony, TX 75056
- Roanoke, TX 76262
- Lewisville, TX 75057
- Lewisville, TX 75077
- Hickory Creek, TX 75065
- Flower Mound, TX 75022
- Corinth, TX 76210
- Argyle, TX 76226
- Denton, TX 76208
- Denton, TX 76207
- Denton, TX 76205
- Denton, TX 76201
- Denton, TX 76210
- Denton, TX 76209

Mandatory Question (224 response(s))
Question type: Region Question

Q20 | Are there any additional comments on short-term rentals, including current and proposed standards, you would like to make?

I think the proposed STR guidelines are good.

I think properly regulated short term rentals can be a win/win for both residents and the city.

Short term rentals in a subdivision just do not belong. It adds parking on the street which causes clear site issues. Since no background checks are done, it is a safety concern for all residents in the subdivision. Children are not even allowed to play in their front yards with short term rentals because parents have sincere safety concerns.

Need to encourage STR because it creates healthy competition, helps small businesses and lowers inflation.

Short term rentals can drive up prices for residential real estate because real estate agents often advertise extra bedrooms as "mortgage helpers."

We need to make sure that our people are taken care of and housed before we worry about business owners and their profits.

Thank you for being organized in providing this kind of forum. Short-term rentals are needed in Denton and the demand is high. As an operator, we have had so many amazing opportunities to welcome, visit with, and engage with people from all over Texas, the United States, and the globe. Their interaction with us often is the baseline of their expectation in town and causes them to have a higher level of regard for the city, thereby increasing tourism revenue. We explicitly recommend restaurants, shops, and other businesses in Denton, proactively advocating for the tourism and revenue of other businesses in Denton (with zero kick back or commission!) Families of UNT and TWU students rave about having a place nearby that isn't a hotel. Families of athletes playing in Denton feel the same way. Our own neighbors THANKED us for putting so much time, money, and effort into making the property we operate a very nice-looking property. It was transformed from eye sore to gem and I think Denton

would greatly benefit from short-term rental operators rehabbing and fixing up properties in town. There are large sections of properties in Denton that are poorly maintained and, without fail, the short-term rentals are one of the nicest in the area. Compliance honestly might want to look closer at the health and safety of long-term rentals. I've noticed that the resistance to short term rentals comes about from those that are simply reacting out of fear, rather than experience, and are almost solely focused on noise and parties. We as operators HATE parties, and we already expressly forbid them. It's bad business. It's bad for the house and bad for our neighbors, and we want to be excellent neighbors, which we explicitly state in all of our materials to guests. That being said, people host parties all the time at long term rental properties, houses, and apartments. I would love to see the police report volume of officers responding to legitimate noise complaints at short term rentals because I suspect they are very few. The bulk of short term rental guests want to be great guests because they want to come back. One way we've combatted this as hosts is enacting a 2-night stay minimum, which has a great way of sifting out the riffraff. We clearly mark and explain our parking policies. We clearly explain and communicate emergency information. I honestly think that Denton short-term rental hosts are among the best in property upkeep, maintenance, and serve as great ambassadors for the city of Denton. Thank you and don't hesitate to reach out with any questions; happy to help.

Current requirement of 1 on-site parking space per bedroom should be 1 parking space per STR dwelling or apartment.

None near crouched, just like bars. STR rental owners need to abide by a neighborhood zoning, ie none in residential neighborhoods. All STRs need to be inspected initially and every 3 months

Make the owners of short term rentals public. It's important in order to discover any corruption, fraud, shell companies, etc. And to find who has been cited for Violations. TRANSPARENCY. .

I don't think you should be able to rent in a family single home neighborhood.

I believe that STR owners should be held accountable for the conditions of their properties and the impact that they have on the neighborhoods. Most of the STR's we've stayed in had owners nearby or in the same building.

Fight this hard! Wasted millions on fracking. Get this one right!

The requirements to notify neighbors within 1000 feet is not in proposed changes and the old says 100 feet. Need clarification.

The short-term rental market is a driver of housing inequality and insecurity - both for home buyers and renters. Allowing people to short-term rent a bedroom does not rise to the level of taking apartments and houses off the rental and buyer market when housing costs are in a crisis zone. No economic boon to the city can recoup the harm done by short-term rentals of residential housing.

As a new faculty member it was crucial for me to stay in short term rentals to get a sense of different neighborhoods.

I think education is key. It would be beneficial to educate the STR owners of early indicators of problematic guests and safety. . It may not always prevent parties & criminal activity, but it will help. I think having at least a 2 night minimum may be helpful also. Usually, problematic situations happen with 1 night stays. I think safety inspections should be done on the homes before receiving permits. There are so many concerns many owners do not consider. (Railings, containers for cleaners, tripping hazards are a few examples)

I have less of a problem with people that rent out a guest house or a bed room. As long as they live there, I don't like it, but can understand it. What is unacceptable to me is a short term rental where the owner does not live there. This is a hotel, and should be illegal. There is one two houses down from me and there are different people there every day.

No STRs

Short term rentals kill neighborhoods, falsely inflate home prices, and are impossible to monitor. Keep them in rental complexes, but out of family neighborhoods. I live where rentals are prevalent & not one tenant tends to their yards. Not one. Short term rentals turn neighborhoods into run-down areas. I'm a big NO on them.

By allowing an excess of short term rentals in areas that would otherwise be primary residences, it takes away from housing available to locals and drives up the cost of real estate. Cheap housing is a necessity for lower income individuals and if there's a desire to keep small businesses open, they need access to cheap labor. Labor won't be cheap if no one can afford to live here. If anything, many neighborhoods should be zoned in a way that don't allow short term rentals at all, only long term rentals or owners, i.e. people with a vested interest in the property, including its care and appearance.

I live next to a STR and several others, and have experienced fewer problems with the STRs than with the LTR properties surrounding me in terms of noise and property maintenance. The STRs nearby allow me to have friends and family from out of town to stay in Denton within walking distance of my house and experience one of Denton's beloved neighborhoods, as opposed to staying in an impersonal hotel in an unattractive part of town along a major highway.

Seeing how short-term rentals decimated southern California and their already bad parking/ownership I highly advise against short-term housing and should anything pass allowing it I hope all HOA and apartment companies amend their rules to disallow short-term rentals.

We need to discourage short term rentals as it takes away from the ability of private citizens in Denton to be able to both afford rentals available or purchasing a residential home in general. At this state in the city's development we need to prioritize the individuals living in the city rather than the outsiders coming in. While we should welcome them, if we prioritize those not living within the city then we are not serving our citizens the way we deserve to be served.

More short-term rentals reduces affordable housing opportunities for Denton residents

The main attraction to staying in a short term rental for us when we first visited Denton to see the UNT campus and meet faculty was being able to find somewhere that was walkable to the square and walkable to UNT. We found a lovely Airbnb on West Oak and moved here a few months later renting a house one block away. The whole point of short term rentals is that everyone can find exactly what they

need and no more. I have one friend who a pianist who has played both the Royal Albert Hall and Carnegie Hall. He searches for Airbnb's with specific pianos to practice on. Other friends search Airbnb's with outdoor space for their pets and wouldn't consider any place that doesn't meet their needs. Others search for Airbnb's with a Peloton fitness bike. That is the whole point of Airbnb. For my wife and I, we want an affordable place walkable and have no desire whatsoever for parking spaces. If someone wants to have a short-term rental with a parking space because that's what people want, then let them serve that crowd. But if they want to have a short-term rental without a parking space as not everyone wants a parking space, let that market be served too. If certain guests need 10 parking spaces, they can search for properties that meet their needs. And if guests don't need a parking space at all because they are visiting faculty with no desire to drive as many faculty feel, they should be allowed to search for that and not overpay for things they don't need, grand piano, peloton bike, or parking spaces for cars they don't have. That is fundamentally the whole point of this generation of internet websites. People can search exactly for what they need. A parking requirement for Airbnbs is non-sensical, no more than a grand-piano requirement, a Peloton requirement, a lap-pool requirement, an outdoor bike stand requirement on all residential properties or any other nonsense requirement. If people want a parking space, let them get one and if they don't want one as they have no need whatsoever for a parking space, don't force them to pay extra for something they don't need, don't want or won't use.

I know there are several short term rentals in my neighborhood. They have been fine. We have much more issues with regular rentals and their tenants. I'd honestly love to see every rental around me replaced with short term rentals, just because they've been so much less noisy, less parking issues, and less crime brought by them compared to the long term rentals, like 1005 Panhandle

Ban them completely. They price residents out of housing.

Do not allow corporations to buy up residential properties in Denton. It destroys the character and makes it difficult for the residents who make Denton desirable to afford to live here.

Denton has so much to offer because of the people who live here. I acknowledge the need for lodging options near downtown, but I don't have any interest in encouraging more short-term rentals to pop up here.

The short term rental business began as a way to allow folks with extra space to offer it up to someone needing that space. It was friendly, local, and allowed both parties to benefit. However, greed can turn anything sour, and that's what we are seeing in communities all over the country where STRs have been allowed to swallow up towns. I do not want to see large companies owning and renting out numerous short term rentals all over Denton. This would make our town less family friendly. I don't have an issue with people having the right to rent out property they own, but there is a reasonable limit, and our community members have a right to have a vote on that. We also deserve to have a say in what constitutes a short term rental. The more frequently renters move in and out of homes, the less likely neighbors are to get to know them. A huge problem we have today is we do not even know our own neighbors. We are all busy people, and that's ok, but adding high turnover to neighborhoods is only going to decrease Denton's sense of community at a time when we need to get to know each other and be able to care for each other the most. Rotating families and individuals through homes will diminish a lot of the heart that makes Denton an awesome place to live. Whatever happens, there must be full transparency to residents and renters. When we travel and use short term rentals, we often wonder who actually OWNS the place, as it seems those managing the rentals are NOT the owners. This isn't all bad, but I want to understand if I'm renting from a large property management company, or a local who lives here and has the community's best interest at heart. Whole subdivisions are being bought up by large corporations who are not local, and do NOT care what happens to the property or the community; they are simply in it to charge a high rent and turn a profit. Lately we've heard of private equity companies snapping up properties en masse in many new construction neighborhoods here in Denton; these aren't considered short term rentals, but last we heard, nearly 40% of Denton's single family homes are owned by corporations. And STRs can be a huge contributor to that rate rising. The city must be ready to set up databases for residents to see and understand who owns the house, apartment, or duplex next door. We should be able to see how many other properties this person/company owns, and that number should be fairly limited, in order to protect the integrity of our amazing city of Denton.

Short term rentals remove housing opportunities from current residents. While it would be good for occasional times where local hotels and similar accommodations are overwhelmed (graduation seasons, college move in times, NTFR season), putting the hope of a few times of short term rentals ahead of housing for many in town for long term is a shortsighted mission and one I hope my fellow

Dentonites do not support.

Short term rentals should never be allowed. They drive up prices for "investors" that do not take care of their properties while denying the chance for first time home buyers to get their home and contribute to the community.

Prefer no short term rentals in any established neighborhoods

With the number of college students we have, as well as the number of people that would like to live in Denton and commute in to dfw because of our location, I don't think short term reants have any place in Denton. These only benifit the owner, and only slightly more than a typical rental house will, and have far less oversight than your typical long term rental. Personally I would not want to live next to house that has new "tenants" every week. As apposed to the typical renter you can get to know and become actually become neighbors with.

Short term rentals should not be allowed in communities that pay HOA fees and who strive to make their neighborhoods a safer place to live. Strangers coming in and out too frequently endangers us all and our property values.

The affect on housing and rental prices cannot be denied. In long term rentals, both of the ones near my house are owned by companies from only not in Denton, but not in Texas. You can see how other cities have seen dramatic increases in prices

Property taken care of properly, no damage or affect to neighborhood and ability to revoke said property when there are numerous violations and complaints.

As elderly widow chose to live in safe neighborhood and no longer feel safe with unknown people renting bedroom for \$40 nightly. It's also against our HOA regulations that I bought property in expecting rules and guidelines to be followed.

While they may seem like a good solution to housing issues, you are just slapping tape over a fire hose. Housing issues in Denton need to be addressed from the bottom up. Providing housing for our

homeless or providing resources for those at risk should be more important than property owners wanting to gain extra income.

STOP allowing short term rentals, it's driving up inflation in the housing market for EVERYONE

I have explained my belief that short-term rentals do not belong in residential neighborhoods in Denton. That said, if short-term rentals are allowed to exist, then there should be strict regulations established to go along with them in regards to noise (no parties), number of occupants, lighting, parking and property upkeep. To this end, there should also be an expectation to surrounding property owners that there will be a reasonable response time from law enforcement for violations and a system for fines and license-revocation for irresponsible short-term rental property owners.

Many students and their families come to Denton to visit or to audition at TWU and UNT, the cost of hotels in Denton is very high, and we are short changing those people who have a reason to come to Denton but who cannot afford those hotels.

Limit of 2 vehicles. Quiet time after 10pm. No parties allowed. Require trash recycling.

Until rent in Denton is reasonable for its full time inhabitants, I have no interest in seeing more short term rentals and more money going into the property owner pockets while Denton residents pay ridiculous amounts for poorly maintained spaces and less than caring landlords

Owners should be required to post all restrictions such as maximum occupancy, quiet times, parking, etc. in their on line offerings for short term rentals

I don't want short term rentals in our neighborhoods, put them in hotels.

They should not be permitted. There are plenty of short term lodging options existing in town. Short-term rentals reduce the sense of community, and only exasperbate the widespread supply issue of affordable permanent housing in this country.

Please put a stop to this nonsense. Venture capitalists make money on the companies that coordinate these with no concern about municipalities or local residents. Do not allow rental scooters or self-driving cars either.

I am absolutely not a fan of Airbnb and the like. I feel like those kinds of properties invite disturbances, violence, visitors who don't care about leaving their trash around the neighborhood, and they drive up the price of rent on an exponential basis. I feel like the nearly unaffordable housing costs in North Texas have, in part, resulted from these kinds of properties. If I had my way, I wouldn't allow them at all, but I understand that some folks feel differently, and I am willing to compromise.

owners are taking low rent long term properties which Denton needs and turning them into short term rentals to make more money in turn hurting low income families

I am totally against short term rentals in Denton

I feel short term rentals should be confined to tourist area with mostly vacation homes and rental for vacations. That is NOT Denton. That said, I do not like governments limiting property rights.

6 month a longer rentals only

Limit the number of people, and cars a rental can have

Short term rental are hotels. Put them next to hotel zoned areas of Denton. Do. Not allow them in Neighborhoods. It is a scary thing to wake up to a new set of neighbors each week.

The city will be making a huge mistake if they allow this to happen.

Certainly need regulations but they should be pro property rights and pro Denton. We need to make Denton convenient for all to visit.

The city can't possibly control short term rentals with existing city services. The city is better off servicing existing Denton residences by not allowing short term rentals. Don't give in to the few and not honor numerous of your true residents that live here in Denton and make this a great place to raise a family.

I don't want any in my neighborhood!

Short term rentals have caused property values to increase, negatively impacting existing neighborhoods via property taxes, and caused me to reconsider plans to buy a house here knowing I won't be able to compete with the much higher offers multi-property short-term rental owners and leasing companies can do. I think allowing it other than the absolute minimum is a dangerous precedent that will see good chunks of Denton sold off and die, similar to what's happened in College Station in the last 3-5 years.

Denton should enact the same laws on this issue as Dallas. They got it RIGHT and for all the right reasons!!

We would eventually like to rent out only one to two bedrooms... at times.

They are a danger and unsafe for anyone with kids & a nuisance to adults and families in the area working to keep their property decent and safe.

I do believe one or 2 per person is best. I have heard of a few investors buying many homes in the same neighborhood, which is not fair to the rest of the community.

Do not allow them

Didl stressing when you're quiet neighborhood turns into party central every weekend. Finding items used for drugs, used condoms, can't get through your neighborhood because cars are blocking the street. Police called and nothing changes. Shots from a gun fired and noise

increases. Once again, police called. Nothing changes. Still loud partying, underage drinking, etc. Do not feel safe anymore in own home.

There should be more short term rentals in Denton.

Major complaint is a house with 2 car driveway being used for parties that bring 20+ vehicles

If someone owns their property then you should not tell them they can not rent it out, Government always trying to control private property is never good.

Short term rentals can be a big benefit to local businesses and the community.

!!!!!!Couldnt enter zip code correctly on survey -- should be Denton, Tx 76210 Public registry maintained of short term rental properties in the city. Greater law enforcement visibility when number of rentals exceed some standard. Annual city inspection of property to insure property is maintained and safe.

No issues with STRs as long as rules are in place and managed properly

We have never had a bad experience staying in a short term rental. We leave the property clean. Take out the trash and always leave feedback about the host on the rental site. Communication is the key. We have 2 rentals booked for the near future. I can hardly wait to travel.

I think they should be allowed but limited with certain conditions: Renting a guest house on your own property should be OK. Renting out one or more of your bedrooms should be OK. Parties should be prohibited, Noise should be kept to a minimum. Parking should be carefully regulated. All STR's should have video surv.

Denton wants to become the largest Non Owner Occupied Housing city. When it does, the decline in quality of life in Denton will become

even more apparent than it is today! I pay Taxes, Renters do not!

Short term rentals can be very good for a community as long as they have some basic rules in regards to parking and quite hours. And those same rules should apply to long term rentals as well....

ident

Your application does not allow me to respond to #: 11, 12, 13, & 16.

Both the council and staff forwarding these proposals have yet to clearly elucidate what problems they are hoping to solve by entering into the regulation of short-term rentals, apart from perception problems raised by certain residents. As such, it is difficult to address these regulations in a data-driven way, as should be the case with all policy in our city.

Please do not allow STR in residential areas

I have small children. The world is scary enough without a revolving door of strangers staying in our neighborhood. They don't recieve background checks, they could be anybody. I would prefer NO short term rentals allowed in ANY residential neighborhood.

Residents hold wedding and homecoming parties, make noise, jam neighbor parking lot all the times.

Short-term rentals should not be allowed in residential areas with no easy access to a major tourist attraction or economic/entertainment hub.

No

From the nextdoor app discussion where almost everyone not a host or owner hates them and thinks they are bad. Anyone allowing these to come into residential communities is asking for trouble. people will be hurt neighborhoods will revolt, gang activity will abound, drug dealers lover these Prostitution will now be in the house next to your and woman are being trafficked. Once you live the experience you

will see that this is insanity The airbnb next to my at the neighboring home has been shut down. They cant get past town requirements 4 permits and other issues. It has been vacant for about a year now. Yes, I should have used my gopro to record illicit activity but with the Thugs, lowlifes and seemingly gangster types who looked like they were packing at times with something down their pants I decided to not even go outside at all because I felt that at any time the bullets were going to start flying. . It is quite different when the mayhem is actually happening. There were at other times older men with what looked like teen girls at least 2 times. Lots of visitors. likely trafficking, I think. I could smell the weed and observed behavior of extreme drug intoxication. It is the perfect setup for them to get away from places that the police target for drug trade and trafficking. In reality some people were very respectful and obvious to me just good family folk needing a house because they had a family get together or some other event. One very nice family stayed for about 2 months, they were pleasant and waiting for their home to be finish being built they had 2 small dogs and kept them quiet and controlled on a leash when needed. It was that 20% that were either inconsiderate , noisy, keeping late hours, playing loud music. screaming late at night or just sitting out back on the porch at 3AM having a conversation but laughing and alerting my dog since it was maybe 20 feet or so from my bedroom window. The person who put his german shepherd into the storage building that was up against my fence line and let it bark night and day very loud also had taken that same dog out front unleashed and was beating the dog HARD. It was very upsetting dealing with the scum of the earth during that time. I will add the photos of the storage building illegally placed which was advertised as additional living quarters. I won the battle and town had them remove that thing from the property.

Airbnb and the like have only made it harder to own property as everyone with money have bought up everything around and raised the price an exorbitant amount. These rentals should be limited.

They all need to pay hotel occupancy taxes. If a STR is not collecting and paying hotel taxes, than they should not be allowed to operate.

Short Term Rentals might work in a vacation destination (beach/mountain/beach/Orlando), but the ones we stay in are "short term communities". When ALL of the homes are STR, it's better, as it keeps the crime/parking/noise/etc all in one area.

We already have a housing shortage here in Denton. Limiting short-

term rentals throughout the city would be a great move in my opinion. If people want to provide their spare bedroom as a short-term rental, I see no problem with that. But otherwise, tourists should stay in a hotel or with family so more folks can afford a home. Thank you.

I would prefer accepted applicants be a Texas resident or Texas company, no out of state entities.

Keep commercial businesses on commercially zoned land...not in out neighborhoods!

It takes away from the beauty of getting to know your neighbors when the house next to you has a new person there every week. It also limits the available rentals for residents in an already very stressful market. We don't have enough affords housing options for families.

Because of the income I've received from short term rentals, hundreds of guests have experienced the charm of Denton (and many have returned), I have the funds (and incentive!) to keep my property well maintained and looking nice for the sake of my neighborhood and future guests, I have been able to renovate the home while preserving its original Craftsman glory (which is attractive to guests!), and visit my own family in town when we don't have guests. My entire street is beautified and lifted up by our home, and this level of upkeep is only possible because of the income we make from our short term rental. We have never had any complaints or disturbances with neighbors.

NO. We don't need trois in residential areas

1) Airbnb no longer allows parties or events, VRBO and other STR should do the same. 2) Require owners to provide neighbors within 100 ft their contact number and Airbnb's contact info for filing complaints about how a particular STR. 3) If a neighbor complains to the owner & get no response, they should be encouraged to file a complaint to Airbnb/VRBO, etc. If the neighbor does not receive a response or the problem continued they should be encouraged to file complaint with the City of Denton. The city should have a policy outlining this process; include that the StR owner is fined if the problem the neighbor complains about is not corrected.

Your survey is poorly worded. Instead of "unsure", it should read "no change" or "none" or something. Unsure make me sound indecisive, and I have very definite opinions.

I beg the City of Denton to understand that we do not need more short-term rentals for accommodations. If the city wants to bolster our economic appeal for tourism, it should focus on public transportation and infrastructure to make it easier to get to and from Downtown/areas of interest from the various hotels we already have. There is no reason to use housing that could go to families/individuals in order for landlords to make more money than they already do, all the while not maintaining the properties they already have.

I feel strongly that the property owner needs to have a personal interest in maintaining the property and living with the results of actions taken by renters. Allowing people to live remotely and run a rental property that the owner does not have a personal stake in will invite abuse. Placing fines and penalties on the non-resident owner will not discourage people who are only interested in the revenue stream.

No comments

Anyone who has thought it through would prefer a short term rental next door vs an empty property. Vacant property draws rodents , thief's, squatting, deterioration, drugs , and crime . It should be up to property owners how they use the property they worked for , pay tax on , and own ! It should be up to the property owner to set rules , monitor compliance of rules , and enforce rules . A better deterrent to noise and other concerns would be a fine from the city if owners fail to enforce rules , thank you for allowing input .

I think if a person went to the energy and expense of buying, owning and maintaining a house, they should be allowed to use it for short term rental purposes. If they are concerned with bad behavior, simply require a security deposit. If they break the rules, they lose their deposit. Also, check their reviews before renting to them.

It doesn't matter if its short or long term rentals. There are already laws and ordinances that have to be abided by and enforced. No need to create a solution to a problem that doesn't exist.

Streets are already too narrow for emergency vehicles when property owners park extra vehicles on the street (teen drivers, etc) without adding more cars for people renting space in those same homes.

Do not allow short term rentals within areas zoned reside. Short term rentals are businesses period.

It is already increasingly difficult to find affordable housing due to developers and investors buying up multiple properties, often not taking care of them or their tenants. If short term rentals become popular, there will be less housing and less incentives to keep housing livable. Growth and tourism are wonderful, but not at the expense of the current residents.

there should not be any short term rentals allowed. 6 months or more should be the requirement

Short term rentals should not be allowed within residential neighborhoods, we have plenty of hotels for people to stay at when visiting!!!! Whoever is approving these accessory structures & developing every inch of land needs to stop! We need preservation of green space, more parks, trees, trails, less development.

Limiting the number of properties an individual can own as short term rentals is more important than a broad policy for all short term rentals. Many of the potential issues from the above questions will depend on if the property owner/managers are part of, and responsive to, local community needs. Also prevent companies from buying properties for short term rentals. Only allow individual property owners with Denton or surrounding county addresses to own properties for short term rentals.

I don't think the city needs to over-regulate this. Property owners should have the freedom to rent out their dwelling, and it's up to them to maintain their property. As I mentioned, ST Rental companies have many of their own regulations in place encouraging both respectful guests and appropriate accommodations. Bad guests get bad reviews and don't get invited to future rentals. Bad hosts get bad reviews and people don't stay there.

There have been multiple articles in newspapers and magazines about short term rentals especially in Dallas and Austin, there have been many problems those cities are trying to work with. Being a college town, I feel these problems that they have spoken about will increase.

I don't have a problem with short term rentals. The issue will be if there is not appropriate infrastructure to support existing residents, plus traveling guests.

The more short term rentals are allowed in our area, there will be less affordable homes for low income or first time home buyers. It will turn our neighborhoods from a neighborly communities into a money making opportunity for a few who may not even live in or care about our communities.

Decline. This should not be an option.

I don't think short term rentals should be allowed in HOAs unless the property owner resides in the home for the majority of the year.

I never was concerned about STRs until I read about the problems in Carrollton/Plano and would not want to see that here.

Most of the people I have come across in the short term rentals are families or couples traveling. I've not met one that had any ill intent.

As an investor, I'm considering buying a short term rental; however, there are certain neighborhoods I believe are best suited for this and those would be downtown and around the universities because they're already mostly rentals. I also believe 10 guests are too many, regardless of the size of the property because of the increased noise, cars and trash. I think there should be a maximum of 6 guests per property. In a tourist-heavy city like Branson, MO you have whole areas of condos and cabins that are short term rentals and they're not in single family neighborhoods. We don't have that here in Denton so you're basically turning existing homes into vacation homes. It's not going to go over well in most neighborhoods.

Look into limitations for LLCs from operating short-term rentals.

We enjoy AirBNB and VRBO units while traveling. They enhance our experiences learning more about each community and the hosts as we travel. Denton could certainly benefit if this type of lodging increases here.

Limits on # of persons per bed

1. Inspections of the properties requesting permit to STR should occur prior to granting the permit and at the beginning of each annual re-registration. 2. Establish sizes for parking spots similar to retail and commercial businesses. 3. There must be a mechanism to investigate and record violations to the permit conditions. A police report is ineffective because not all permit violations are criminal offenses and will not be recorded by the police, i.e. use of the STR for throwing a party is not illegal. Each of the permit conditions should have a stated method/ contact for neighbors to register violations. A COD response contact and timeframe to logged complaints should be stated. 4. Most problems with STRs in a residential neighborhood will occur outside of normal business hours and need a 24 hr. response to address violation concerns. Allow photo documentation by neighbors or violation report calls to count toward the permit revocation criteria. 5. The registration/ permit process should not include an owner provided sketch of the subject property. Require submittal of the property information from DCAD which is easily available, more accurate, states the number of bedrooms to determine parking required and confirms any ADU is legitimate and on the books. Taxes lost from illicit structures offsets any economic benefit the rental sales tax would provide. 6. Unregistered STRs should have an accompanied penalty to discourage non-compliance. Why would anyone register and be subject to requirements until they are caught. 7. Require the owner provide the mechanism/websites the property is advertised on. 8. The COD should publish registered STRs as a service to potential guests, property owners and to allow neighboring citizens to know if an active property is registered. This would not create a risk for the properties any more than it being listed on a website. If a concern, have the list be available only after registering to access.

- Priority should be provided for neighborhood density, safety, privacy, traffic, and aesthetics. City of Denton is creating opportunities for slums that decreases property value.
- Parking for STR needs to remain on the property site. Additionally, sizes for parking spots can

be established like retail and commercial businesses. • In the interest of transparency and convenience, STR registration should be attached to DCAD as specs for the resident/property are already in an organized system and the structures can be taxed appropriately. • The registration/permit process should not include an owner provided sketch of the subject property. Require submittal of the property information from DCAD which is easily available, more accurate, states the number of bedrooms to determine parking required and confirms any ADU is legitimate and on the books. Taxes lost from illicit structures offsets any economic benefit the rental sales tax would provide. • Unregistered STRs should have an accompanied penalty to discourage non-compliance. Why would anyone register and be subject to requirements until they are caught. • At the meeting on Thursday, August 17th, it was reported that Compliance for STR is the priority. Compliance cannot be attained without Enforcement. Requesting enforcement be coupled with compliance. Examples were provided of police notification of incidents at STR without follow-up on the calls. • Most problems with STRs in a residential neighborhood will occur outside of normal business hours and need a 24-hr. response to address violation concerns. Allow photo documentation by neighbors or violation report calls to count toward the permit revocation criteria. • There must be a mechanism to investigate and record violations to the permit conditions. A police report is ineffective because not all permit violations are criminal offenses and will not be recorded by the police, for example, use of the STR for throwing a party is not illegal. Each of the permit conditions should have a stated method/ contact for neighbors to register violations. A COD response contact and timeframe to logged complaints should be stated. • It was also mentioned at the August 17th meeting that STRs are not a business. Clearly, a fee for a service is a business and should be taxed and monitored as such. • Permits and Enforcement of STR should be tracked at a public City website. • The City of Denton should publish registered STRs as a service to potential guests, property owners and to allow neighboring citizens to know if an active property is registered. This would not create a risk for the properties any more than it being listed on a website. If there is a concern, have the list be available only after registering to access. • Require the owner provide the mechanism/websites on which the property is advertised. • Inspections of the properties requesting permit to STR should occur prior to granting the permit and at the beginning of each annual registration. • Currently 300 or more STR in COD. Recommending the COD place, a limit on the number of STR allowed.

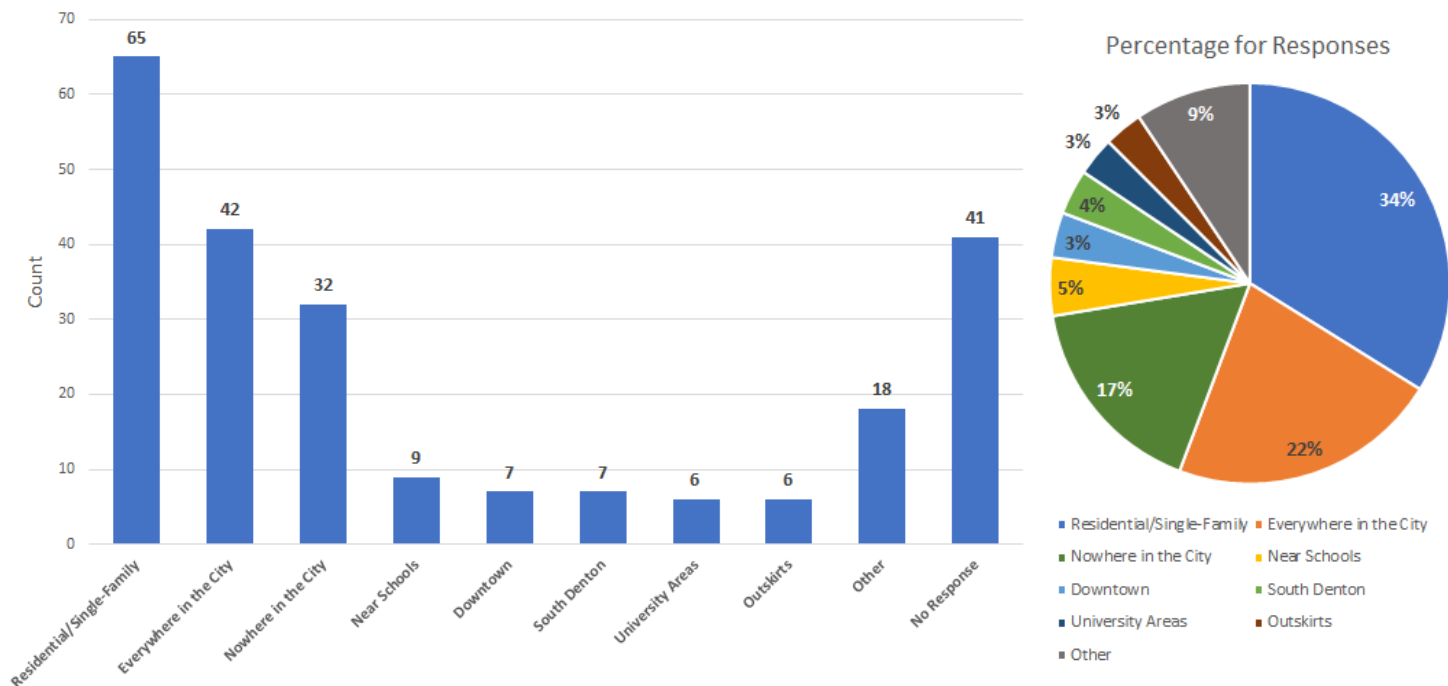
Our HOA wouldn't allow it so I am not worried about my neighborhood. Not sure if there is a market for it here in Denton. I rented a few in Colorado and New Mexico and they were well taken

care of.

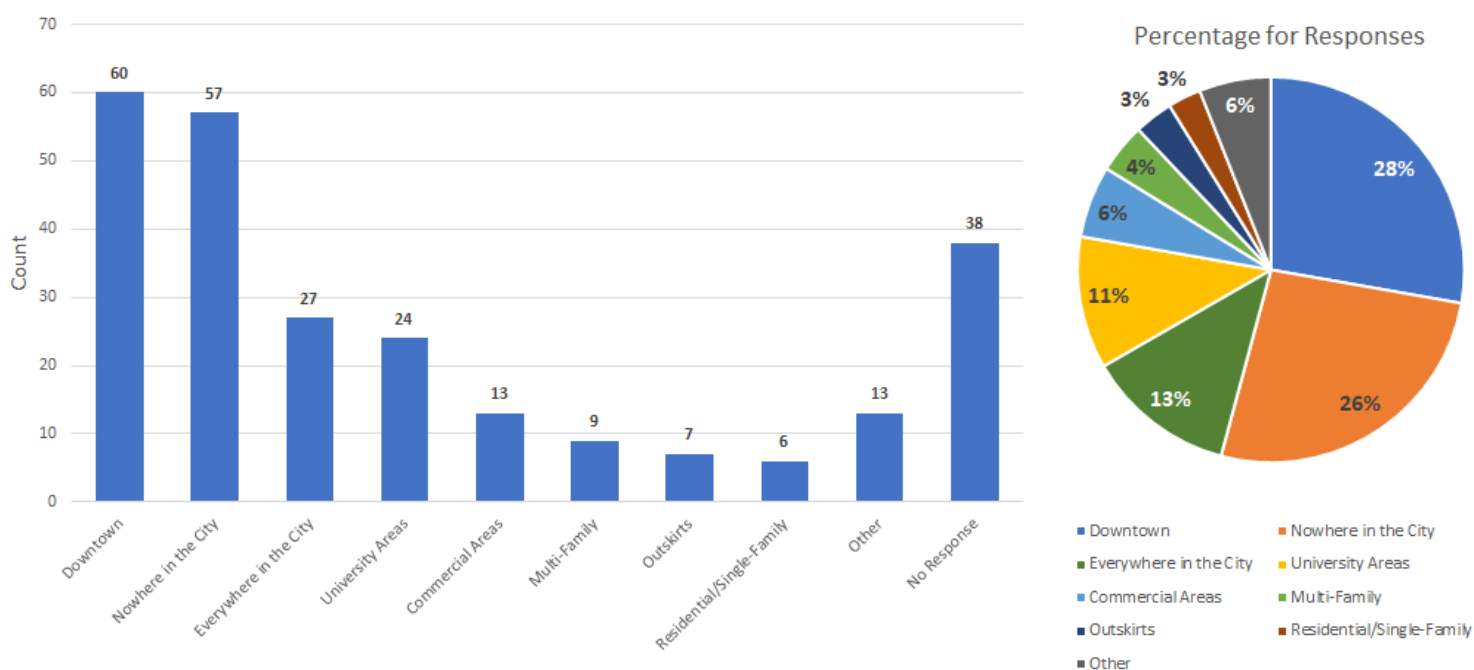
Optional question (123 response(s), 101 skipped)

Question type: Essay Question

Q12 What areas of the city would you want to see fewer short-term rentals?



Q13 What areas of the city would you be fine with seeing more short-term rentals?



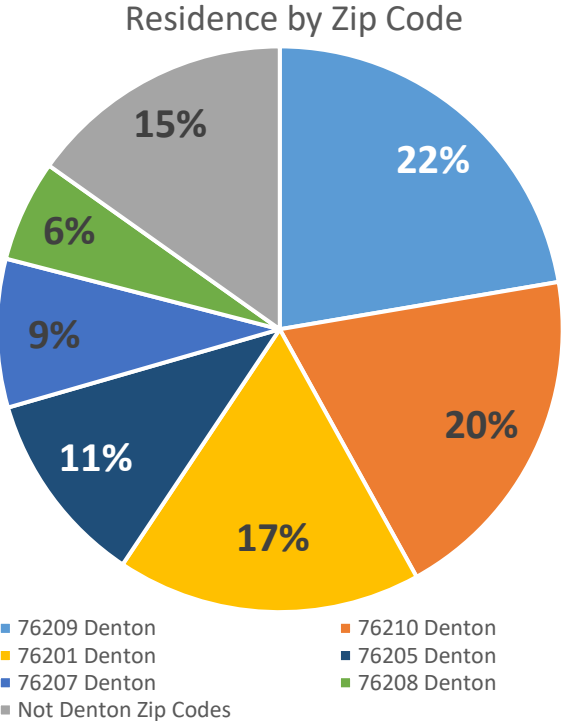
DCA23-0002b

Short-Term Rental Survey

Survey Response Report
August 18, 2023 – September 11, 2023



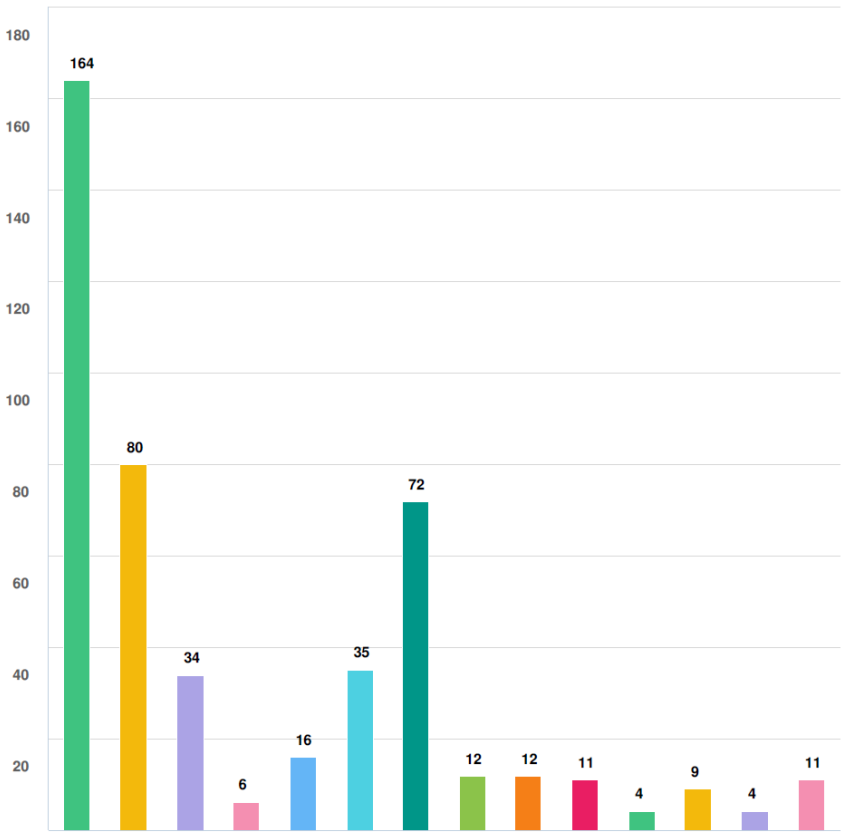
Respondents



*85% of respondents identified as having a Denton zip code

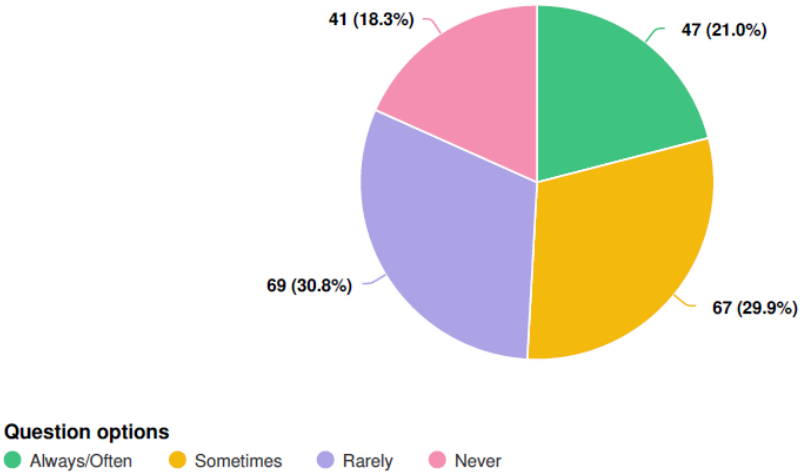


Q18 How would you describe yourself? Check all that apply.



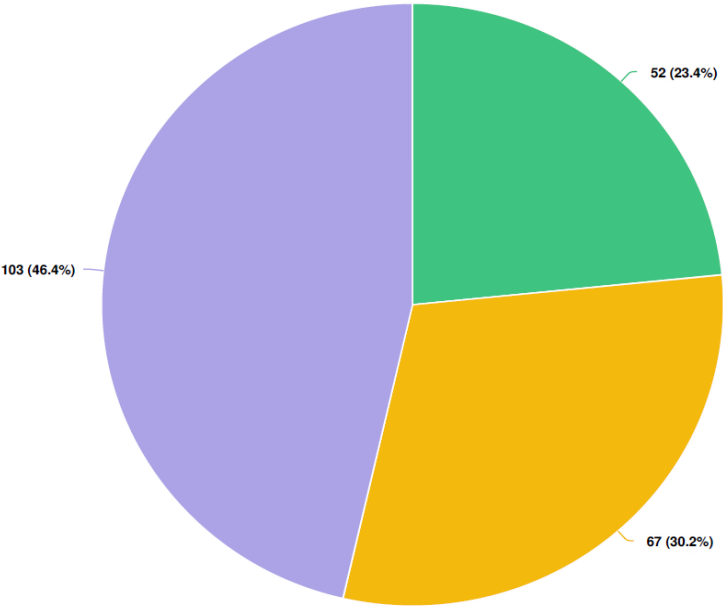
- Question options
- Other (please specify)
 - I manage a short-term rental in Denton
 - I own a short-term rental in Denton
 - I am in the hospitality industry (e.g. hotel professional)
 - I am a real estate professional
 - I own residential property in Denton, but do not reside there
 - I am a student in Denton
 - I work in Denton
 - I own a business in Denton
 - I reside outside of Denton, but visit often
 - I live with family/friends in Denton but do not pay rent
 - I am a tenant at residential property in Denton
 - I reside in a HOA in Denton
 - I own and reside at residential property in Denton

Q1 When traveling, how often do you use short-term rentals?

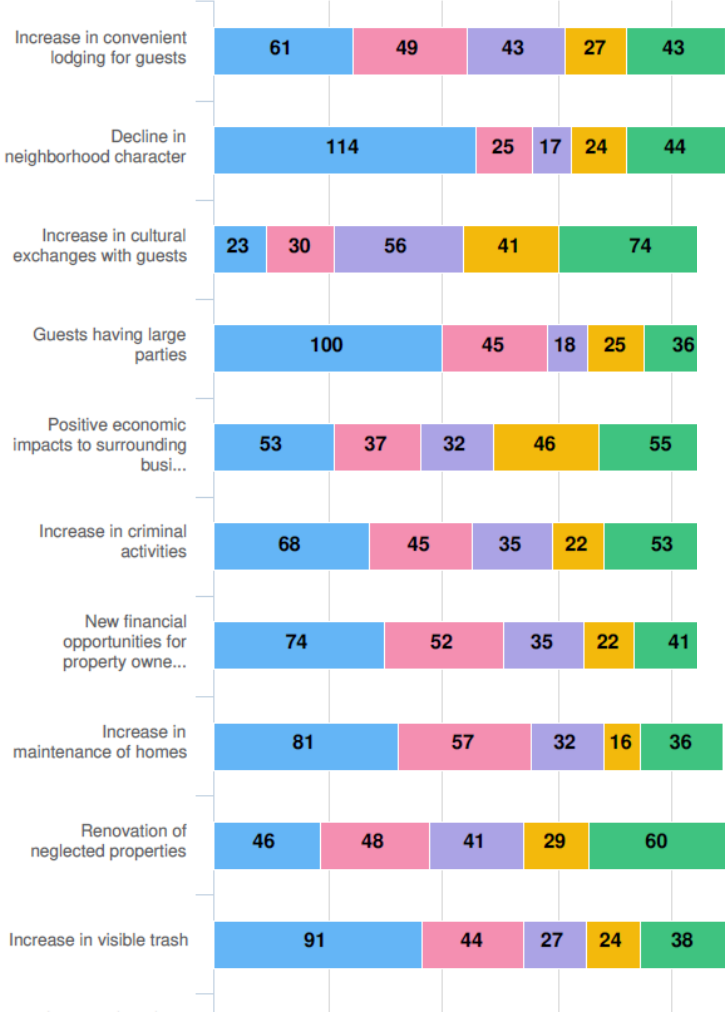


STR Sentiments

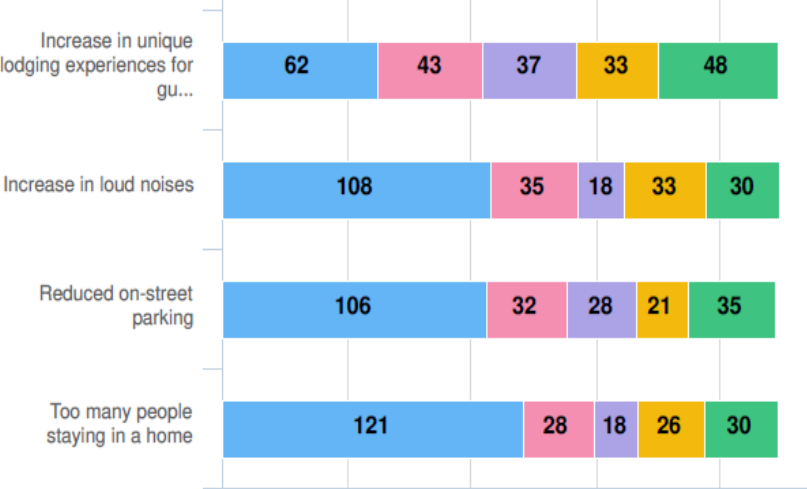
Q6 Do you currently live near a short-term rental?



Question options
● Yes ● No ● Unsure



Q7 Which of the following experiences associated with short-term rentals do you think will happen.

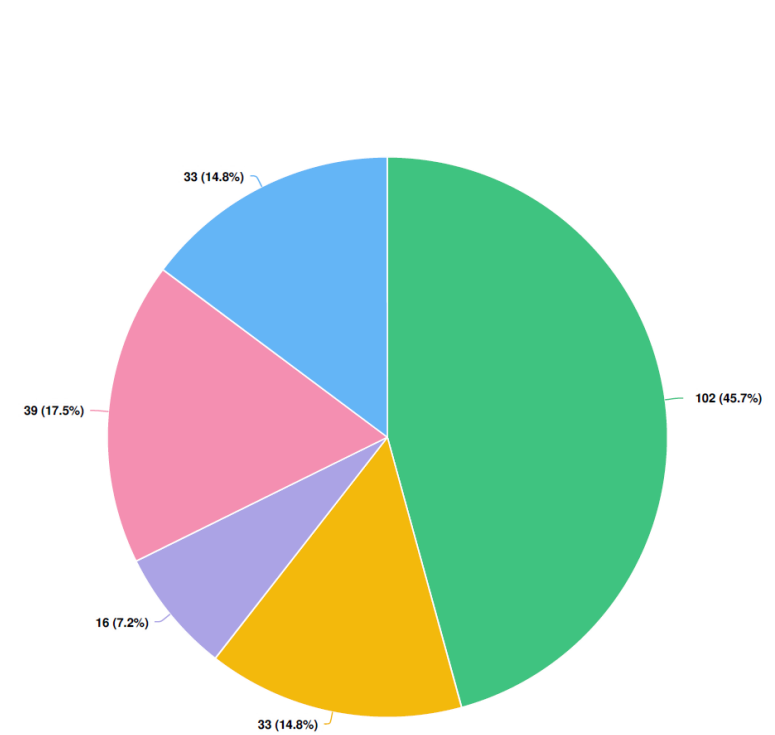


Question options
● Definitely agree
● Somewhat agree
● Unsure
● Somewhat disagree
● Definitely disagree



STR Sentiments

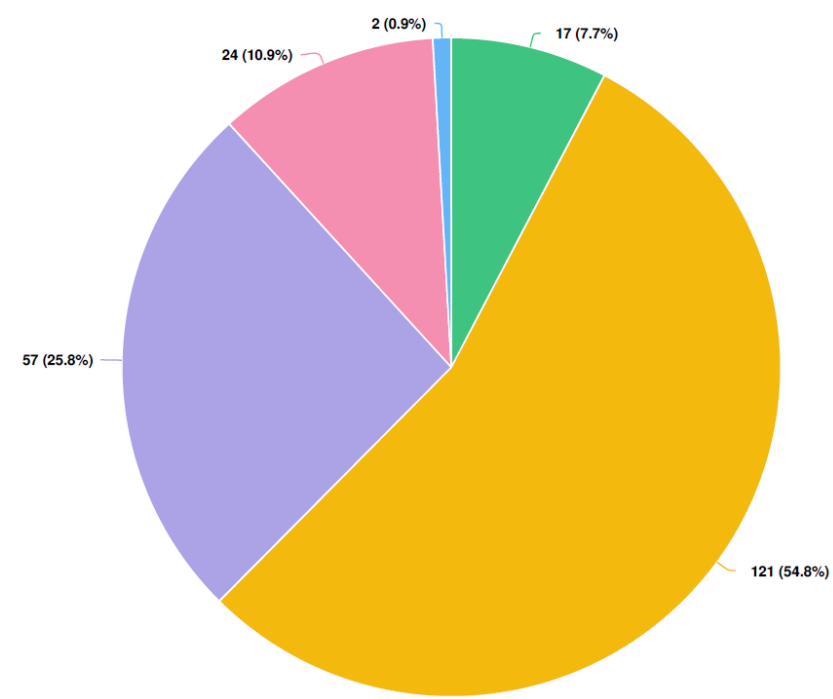
Q9 If a short-term rental registers in your neighborhood, how would you feel?



*65% uncomfortable/very uncomfortable

Question options
Very Comfortable Comfortable Unsure Uncomfortable Very Uncomfortable

Q10 If a short-term rental registers in your neighborhood, how do you think it would affect your property value?

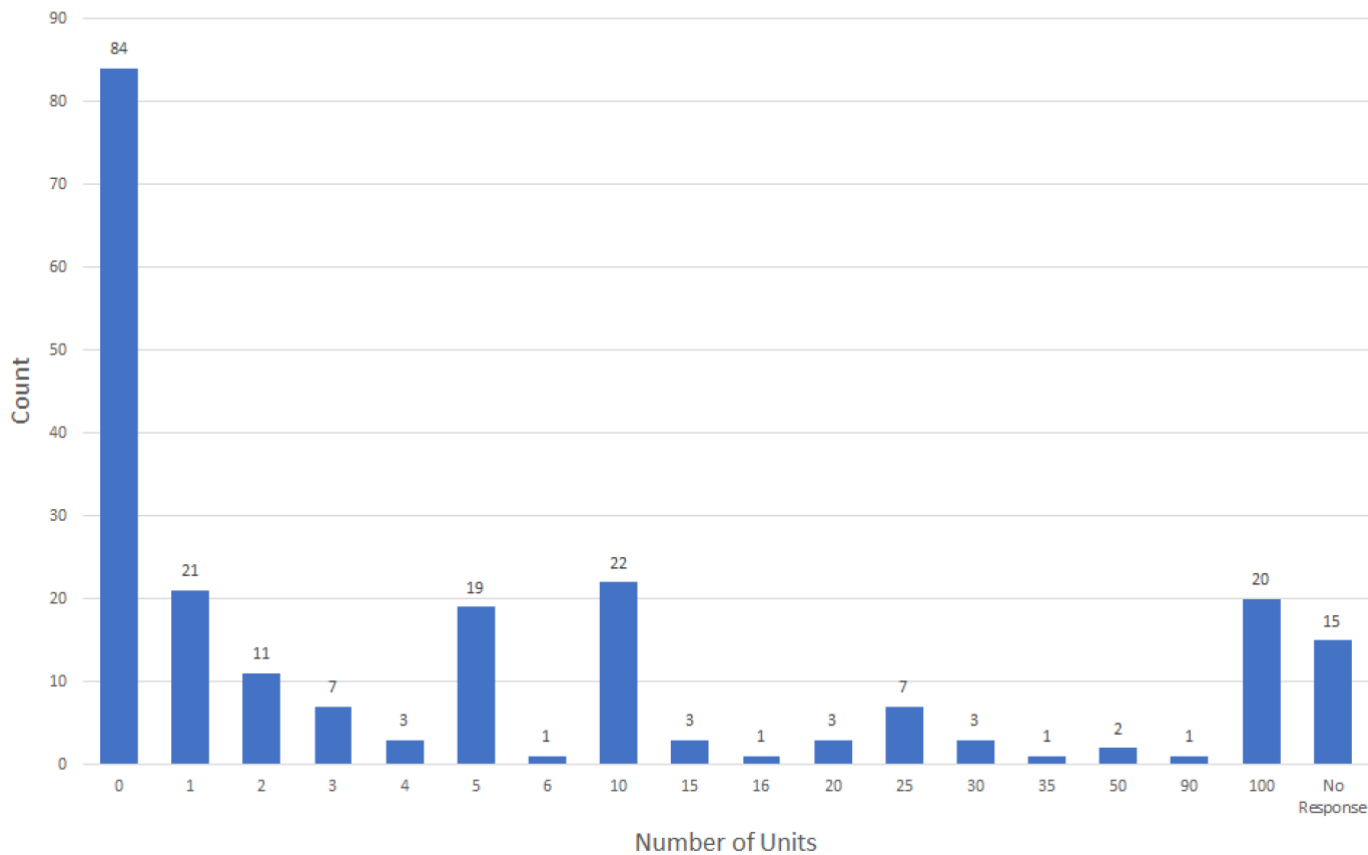
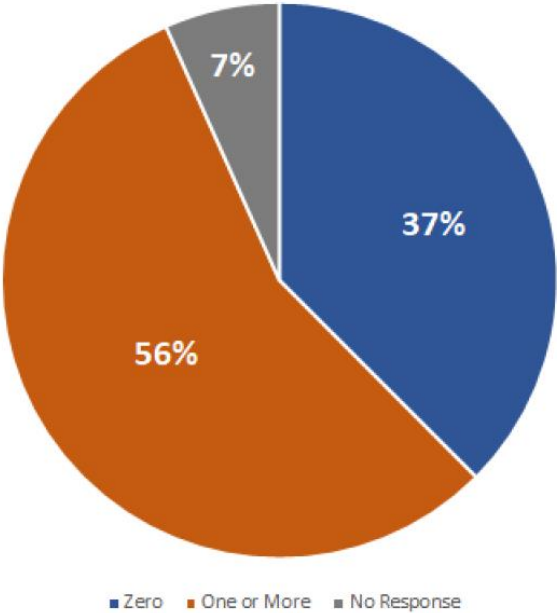


Question options
Not Applicable Unsure No Impact/Neutral Decreases Property Value Increases Property Value



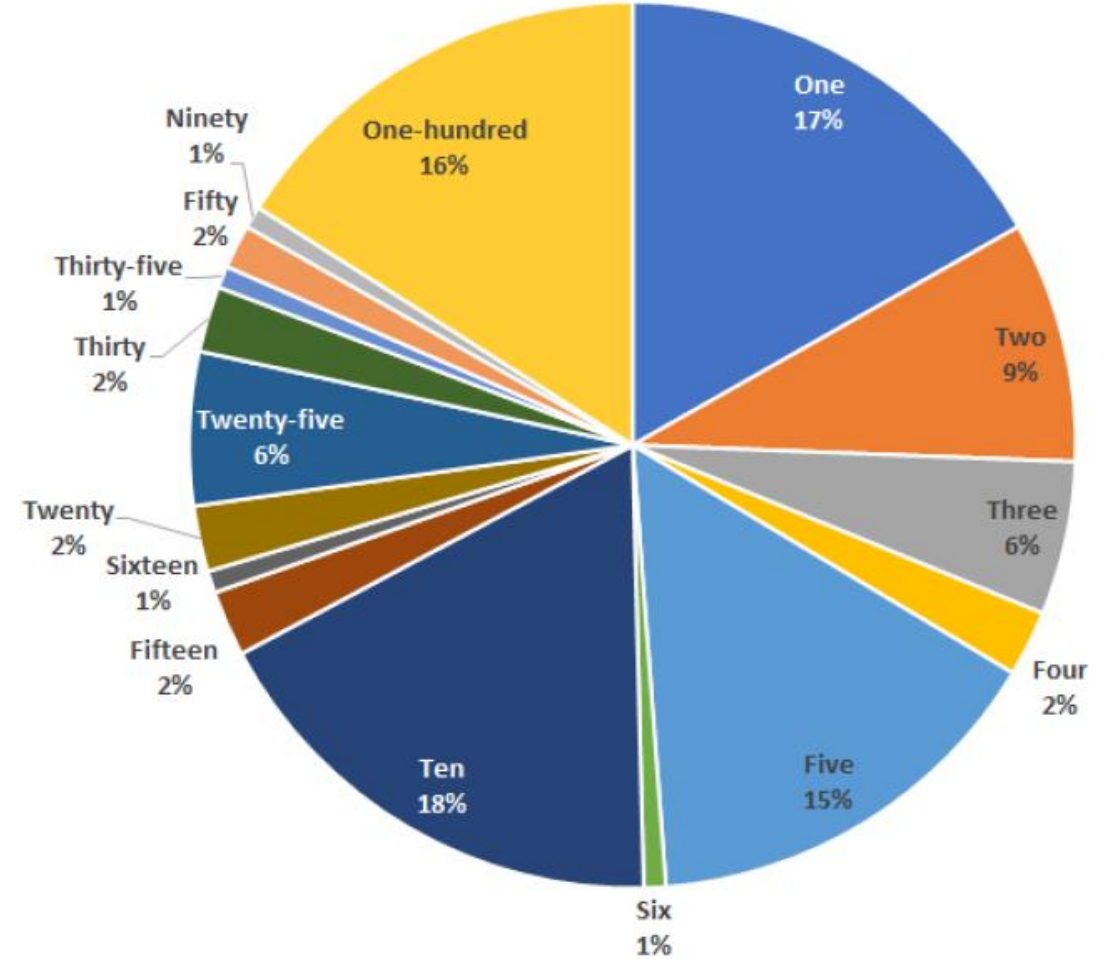
STR Density

Q11 Out of 100 residential dwelling units, how many residential units should be allowed as short-term rentals?



STR Density

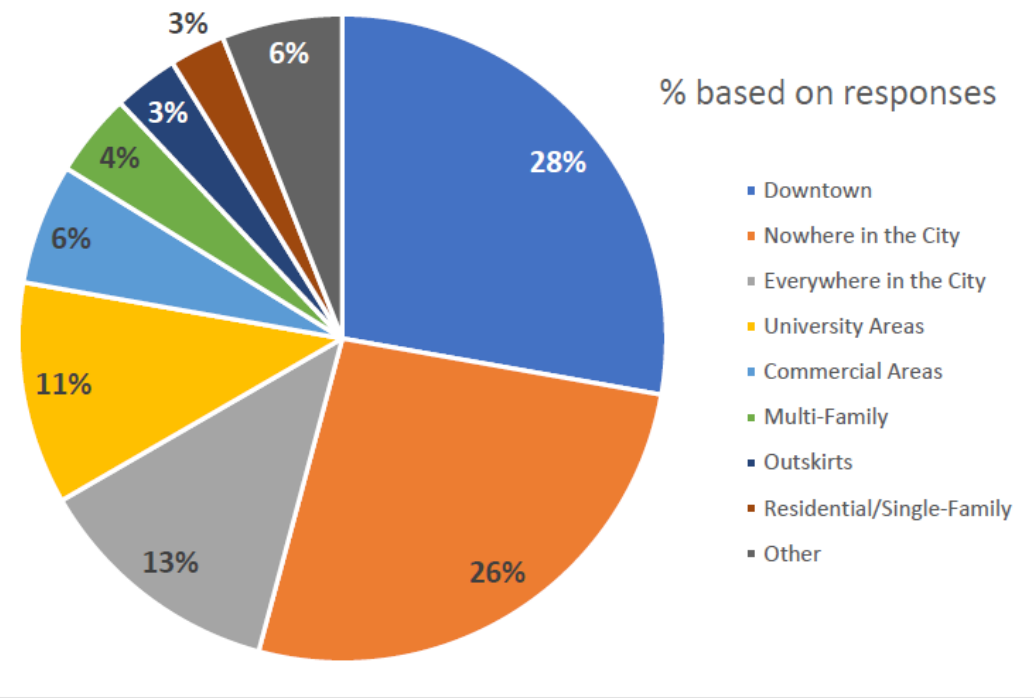
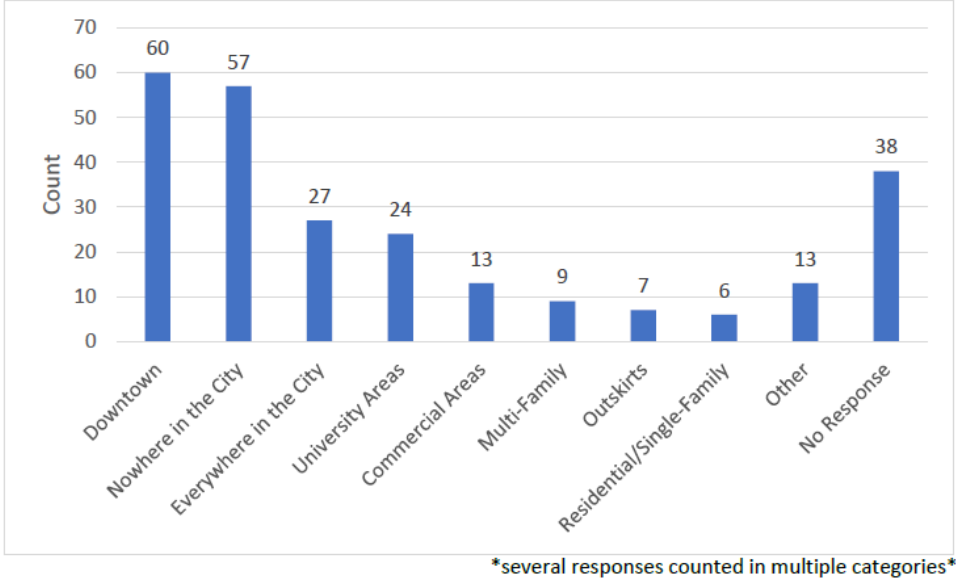
Breakdown of Responses that were One or More



*68% of those who responded one picked a number between 1 and 10 units.

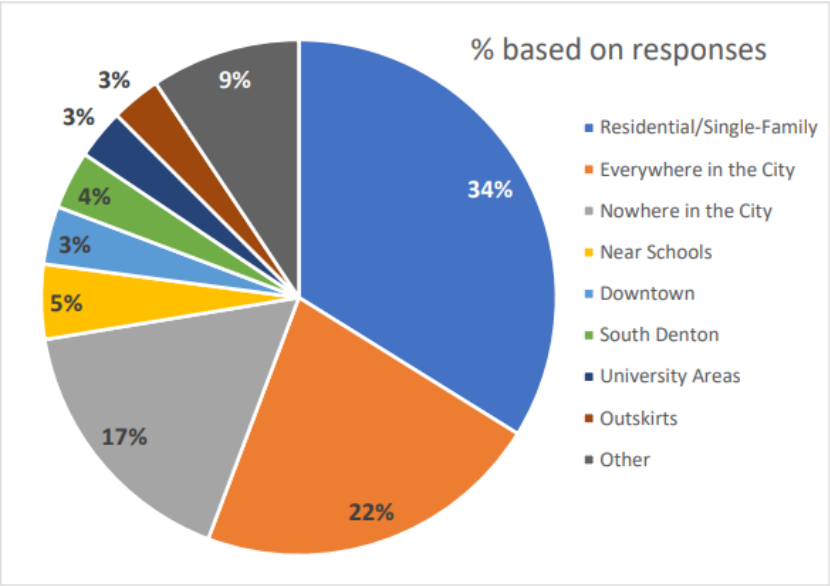
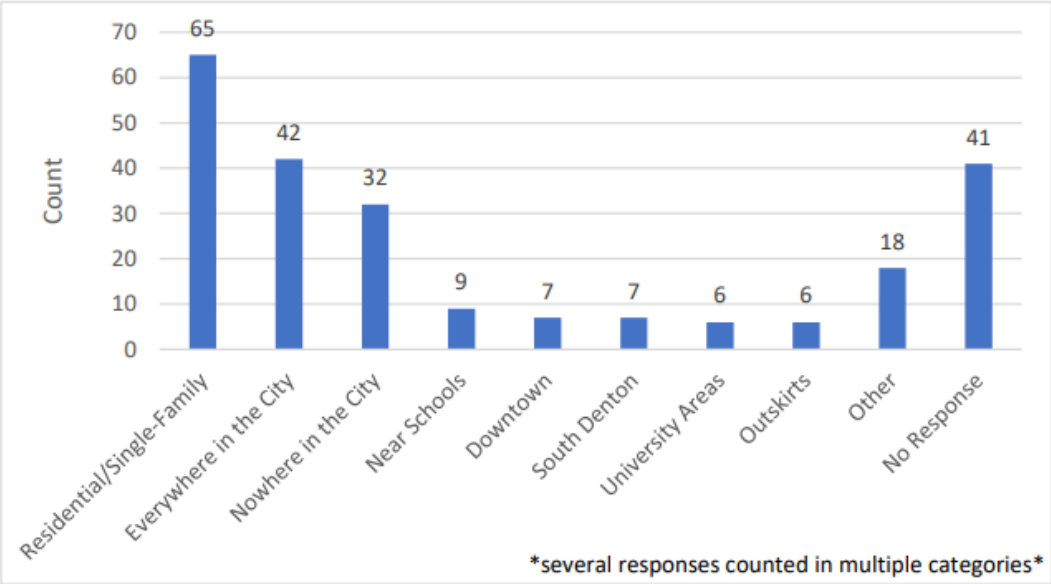
STR Location

Q13: What areas would you be fine with seeing more short-term rentals?



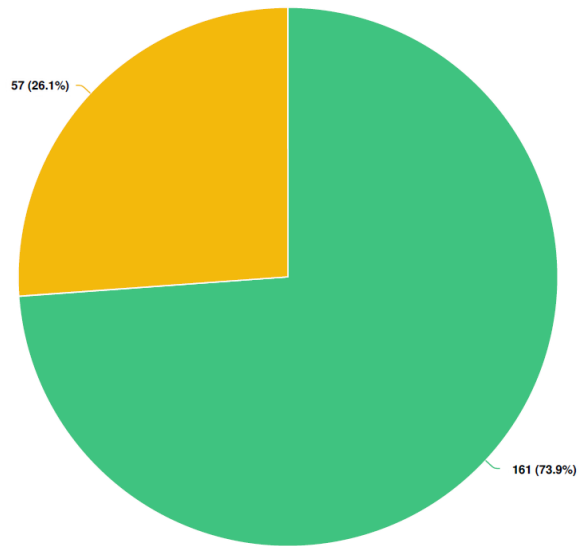
STR Location

Q12: What areas of the city would you want to see fewer short-term rentals?

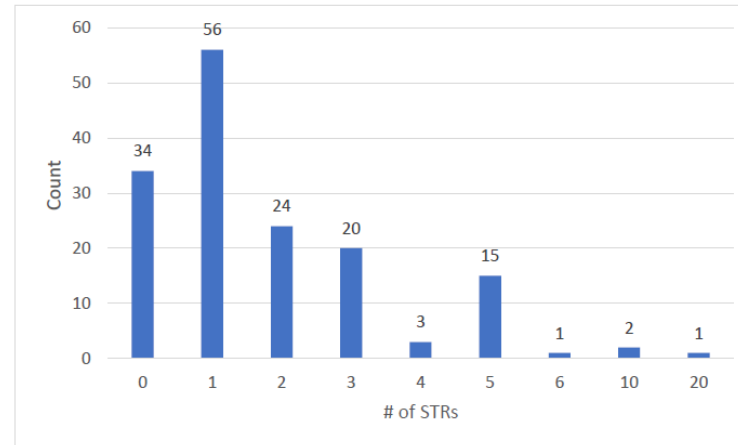


STR Ownership Maximums

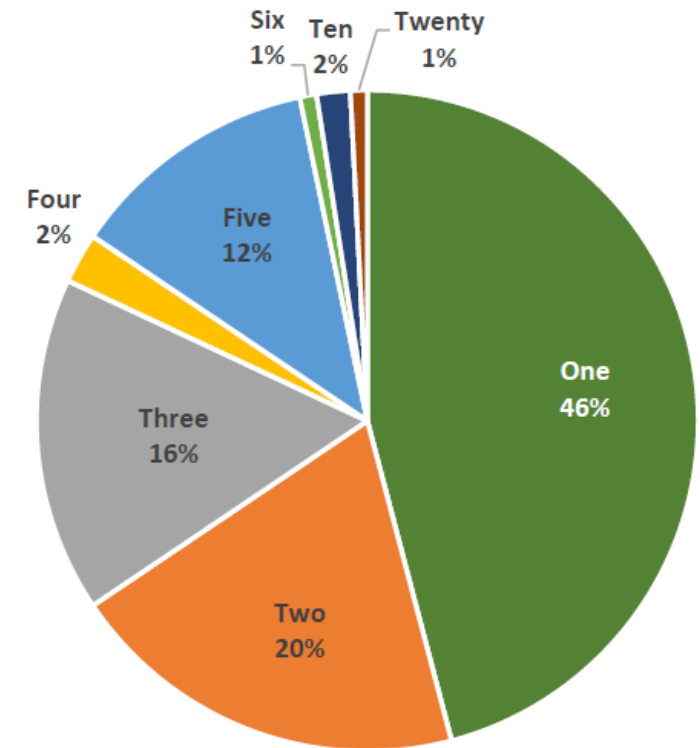
Q15 | Should there be a maximum number of short-term rentals an owner can have?



Q16: If yes to the previous question (should there be a maximum number of short-term rentals an owner can have?), how many properties?



Responses that were "one or more"

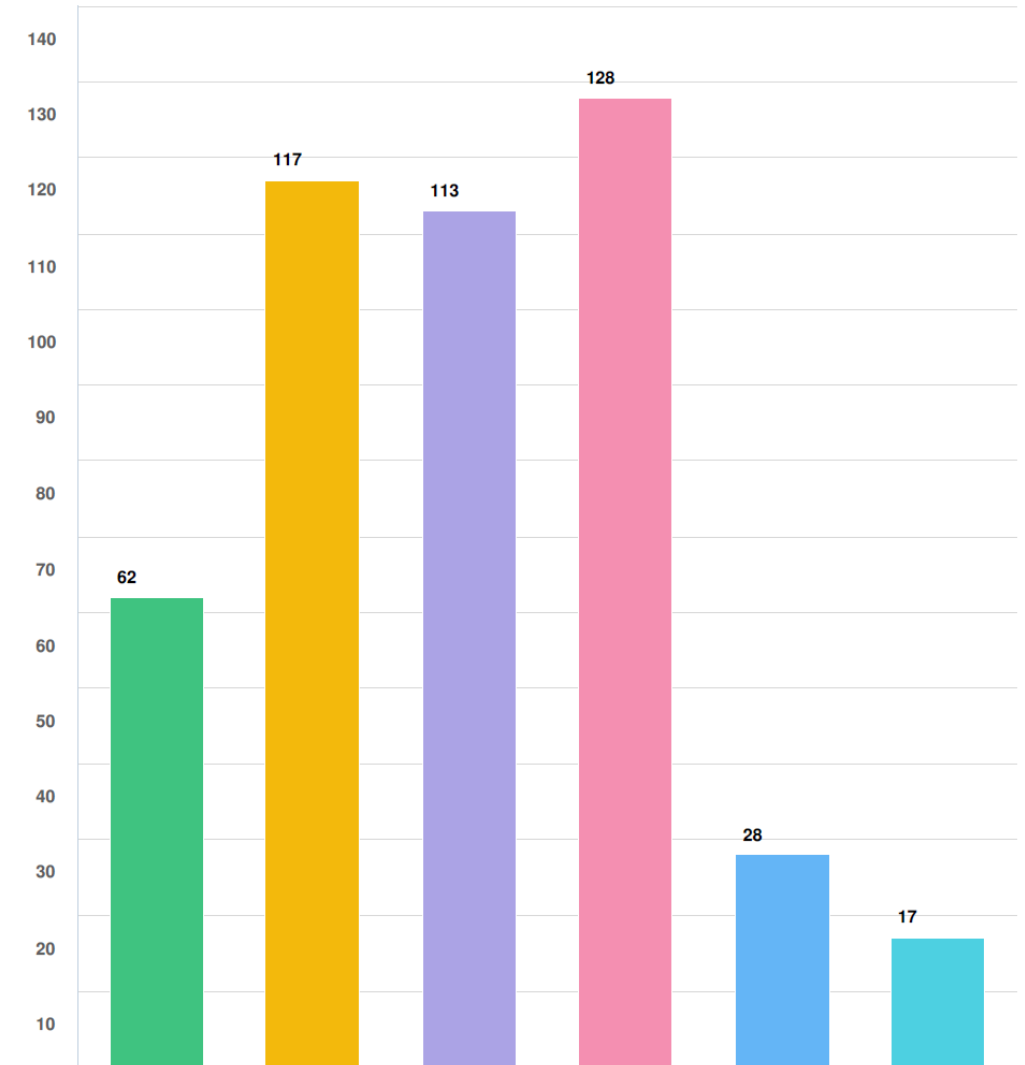


STR Parking

Question options

- Other (please explain)
- Not concerned about parking
- Require owners to provide parking regulations to guests
- Require owners to advertise the number of available parking spots on the property
- Require all guest parking be accommodated on site
- Require one parking space on site per bedroom

Q17 If concerned about parking, which of the following solutions would be acceptable?
Check all that apply.



Q20 | Additional Comments on Short-Term Rentals:

Concern	Policy
Affordable Housing Concerns	<ul style="list-style-type: none">Affordable Housing ToolkitDenton 2040 Comprehensive PlanConsolidated Plan for Housing and Community Development
Increased Trash in Neighborhoods	<ul style="list-style-type: none">City of Denton Code of Ordinances: Chapter 15, Article V: It is unlawful and declared a nuisance for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city, to fail to remove any refuse, trash, debris, filth, carrion, junk, or garbage from any such real property, including easements and rights-of-way.
Noise Disturbances	<ul style="list-style-type: none">City of Denton Code of Ordinances: Chapter 15, Article II: It shall be unlawful for a person to make or cause any unreasonably loud or disturbing noise, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof
Health/Life/Safety Concerns	<ul style="list-style-type: none">City of Denton Non-Emergency Line911 in event of emergency



Questions?

The Honorable Gerald Hudspeth and Council
City of Denton
601 East Hickory Street
Denton, TX 76205



July 11, 2024

Mayor Hudspeth and Members of the Council,

On behalf of the nearly 1,400 members of the Greater Denton/Wise Association of REALTORS®, I write today to provide feedback on the proposed updates to the City of Denton's short-term rental (STR) ordinance. Our association is built on a foundation of private property rights, and we advocate on behalf of homeowners throughout the city, and the surrounding region.

As a property owner, you have a bundle of 3 basic rights: you can use your property, you can rent your property, or you can transfer your property.

Eliminating someone's ability to rent their property restrains a third of those rights. Some people might not consider short-term rentals to be "rental housing," but the fact of the matter is, they are. People have been renting rooms or whole homes on a short-term basis for hundreds of years... in fact, state law says that a residential lease of any length still is a *residential* lease.

The Greater Denton/Wise Association of REALTORS® believes that private property rights deserve significant protection. But an overall citywide cap and neighborhood-by-neighborhood density cap on short-term rentals would limit or eliminate a property owner's right to rent their home – not because they've proven to be an irresponsible landlord, but simply because someone else nearby is already exercising their right to rent. Further, such caps are typically arbitrary – there is no defined number of short-term rentals that is better or worse for a city; setting a limit in that way sets up a scenario in the future to further reduce the number of properties that may be rented. Our association must oppose any policy that takes away property rights without due cause.

We recognize the importance of updating the City's existing STR ordinance to comply with the 5th Circuit Court of Appeals ruling in *Hignell vs the City New Orleans*. But elements of the current ordinance, passed in 2019, are well-suited to collect the hotel occupancy tax and effectively manage noise, parking, and trash disturbances in our neighborhoods, consistent with policies already implemented by code enforcement and police.

While we are of course sympathetic to individual experiences with disruptive behavior in a neighboring home, it is our experience that *generally* STRs are not linked to an overall increase

in nuisance or public harm. In fact, STRs are often maintained to a much higher standard than other types of housing.

Further, short-term rental aggregators have made a concerted effort to cut down on disruptive behavior like parties and loud noise and have partnered with local law enforcement and city governments to ensure compliance. Landlords who violate those policies risk losing their ability to use platforms like AirBNB.

In a recent City of Denton survey, 72 percent of respondents expressed that they are okay with some new STRs. Concerns expressed in that survey were typically hypothetical, in which respondents described issues that *might* arise. Public education about the benefits STRs bring, along with remedies available when problems do occur, would help constituents feel confident in the way the city and landlords handle short-term rental homes.

It's important to remember that communities do benefit from short-term rentals. STRs bring revenue and jobs. A recent study, not far away in Fredericksburg Texas, showed STRs have an annual economic impact of \$233 million. Here in Denton, we collect a 7 percent local hotel occupancy tax from all short-term rentals – this is a huge benefit to our tax base and alleviates pressure on our property taxes.

We appreciate the Council's willingness to approach this topic with thoughtfulness and respect for all stakeholders. The Greater Denton/Wise Association of REALTORS® has been a committed partner to the city on policy matters related to housing, and we offer our input and expertise on this issue as well. We would be happy to collaborate on an economic impact study for the city of Denton in addition to any other way we could provide our help and resources. Our door is always open.

Thank you for your consideration.

Lisa McEntire

Lisa McEntire

2024 President

Greater Denton/Wise Association of REALTORS®

3805 W University Dr.

Denton, TX 76207

Manglaris, Angie

From: Lauren with RealEstateManDFW <lauren@dougshanahan.net>
Sent: Wednesday, May 29, 2024 3:07 PM
To: Manglaris, Angie
Subject: STR Hosting caps and regulating feet apart

Follow Up Flag: Follow up
Flag Status: Flagged

This message has originated from an **External Source**. Please be cautious regarding links and attachments.

Dear Ms. Manglaris,

My husband and I own and operate two furnished rentals in Denton. One is a block from the UNT campus and the other is close to TWU. We have been offering these rentals for more than 6 years and love what we do.

We host all sorts of guests from families transferring to our area who need a place to stay while their home is being repaired, or maybe they are waiting for their close date for those moving here.

We also get visiting teachers, nurses and other professionals who need a home away from home for a few months. In fact, during Covid, we helped a military family who were escaping from Egypt and were desperate for find a nice home for their family here in Denton. We were so happy to host them, and we have remained good friends since.

On occasion, we may also offer a shorter term stay depending on what our guests need, provided we have vacancy in between the longer stays.

In addition, my husband and I will soon be building our new home on Amarillo Street in Denton, near the square and UNT. We plan to offer a guest suite as a short term rental for visiting professors and others who need accommodations near UNT.

We are worried that the new proposed regulations could hamper our ability to continuing to offer our fantastic homes to such wonderful guests.

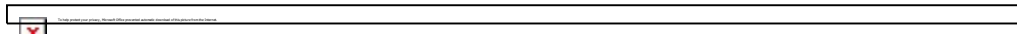
I am not sure I understand why the City would have to limit the number of STR's. This could limit and push out some fantastic Super Hosts in our area that have been working hard keeping their properties to be some of the nicest homes on the block - as do we!

In addition, if my next door neighbor wants to also offer his home as a STR, let's say near UNT, this new proposed regulation of being 100 feet apart could also hamper that, and could hamper us as well. We would find it very hard to do business, knowing that we could be made unlawful at any time.

I can't express enough how hard we work to keep our guests happy and offer a comfortable and well equipped home away from home for them.

We hope these proposed changes will be reconsidered. Thank you for your time and effort on this!

Sincerely,
Lauren Shanahan
817-881-9258



Manglaris, Angie

From: James King <jamesking@agentsalliance.biz>
Sent: Wednesday, May 29, 2024 1:29 PM
To: Firgens, Tina
Cc: Manglaris, Angie; Zagurski, Hayley; Bodine, Matt
Subject: RE: STR suggestions and/or Requests

Hi Ms. Firgens,

Would you please forward to all the P&Z members, y email was returned from most of their email addresses.

Thank you very much,

James

From: Firgens, Tina <Tina.Firgens@cityofdenton.com>
Sent: Wednesday, May 29, 2024 1:24 PM
To: James King <jamesking@agentsalliance.biz>
Cc: Manglaris, Angie <Angie.Manglaris@cityofdenton.com>; Zagurski, Hayley <Hayley.Zagurski@cityofdenton.com>; Bodine, Matt <Matt.Bodine@cityofdenton.com>
Subject: RE: STR suggestions and/or Requests

Received. Thank you.

Tina M. Firgens, AICP

Deputy Director of Development Services/Planning Director
Department of Development Services
Office: (940) 349-8507 (Direct)
401 N. Elm Denton, TX 76201
www.cityofdenton.com

From: James King <jamesking@agentsalliance.biz>
Sent: Wednesday, May 29, 2024 12:04 PM
To: Firgens, Tina <Tina.Firgens@cityofdenton.com>
Cc: Ellis, Margie <Margie.Ellis@cityofdenton.com>; Smith, Tim <Tim.Smith@cityofdenton.com>; jason.coe@cityofdenton.com; desiree.pardon@cityofdenton.com; Pruett, Eric <Eric.Pruett@cityofdenton.com>; Villarreal, Jordan <Jordan.Villarreal@cityofdenton.com>; Kimberly Thaggard <Kimberly.Thaggard@cityofdenton.com>; Melinda King <melinda@reddooroperations.com>
Subject: STR suggestions and/or Requests

 This message has originated from an **External Source**. Please be cautious regarding links and attachments.

Thank you all for serving, I've been in your seat literally. Thankfully, that was 15 years ago!! These are some concerns I have and hope they will be helpful.

It is understood that **the first goal** is to bring in all the current Airbnb locations for occupant and neighbor safety and collection of HOT taxes. **Please make this a plan that allows the owners comply and cure deficiencies, if any? With a reasonable cure period.**

Renewal Applications and Code enforcement:

Please consider confirming that owners have a cure period such as 30 days to comply. For example: after a heavy rain there are frequent letters about tall grass. While these are easy to correct and usually without a notice, something such as this could be used to shut down a person's Airbnb business without any real due process.

2.a i.

1,000 limitation seems like an arbitrary number that just causes confusion. Even the Airbnb website shows less than that. While we all love our City of Denton, we are not even close to the destination location of New Orleans.

If you stay with any set numerical limitation, then **I would suggest that renewals get priority over new applications.**

100-foot Distance requirement causes a problem in that a property owners' freedoms can be restricted if a neighbor already has an approved Airbnb.

2.b.ii.iii.

Some locations are better and sometimes obvious locations for an Airbnb.

Example: Please consider allowing a 4-plex in a mixed use, corridor, other non-residential to use all 4 units as Airbnbs.

Thanks

James E King, CPA

940-367-1184

jamesking@agentsalliance.biz

AgentsAlliance
SALES • SERVICE • SUPPORT • INDEPENDENCE

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Manglaris, Angie

From: Mark Haiducek <markhaiducek@gmail.com>
Sent: Tuesday, May 28, 2024 6:15 PM
To: Manglaris, Angie
Subject: Short Term Rentals

Follow Up Flag: Follow up
Flag Status: Flagged

This message has originated from an External Source. Please be cautious regarding links and attachments.

Dear Angie,

Could you please send this to the proper channels to be heard and evaluated by the City Council and Code Office at the upcoming Planning and Zoning Commission Public Hearing tomorrow night. I will be attending the meeting as well.

Thank you,
Mark Haiducek

Thank you for your time to listen to my concerns and ideas regarding Short-term Rental homes. I went to the Denton informational meeting on May 23, 2024 where I met Judge Joe Holland, City Councilman and retired Justice of the Peace of Precinct 1 in Denton.

I was discussing my concerns and ideas about short-term rental homes in comparison to long-term rentals. Short-term rentals haven't been around as long as long-term rentals and there is a need for short-term rentals in our community.

To start off, I have concerns about implementing the HOT tax and increasing prices. Please think about how we are gathering, as a community, 8.25% sales tax on existing real estate that has never been taxed before. It is a completely new revenue source for our city/community that we should be embracing.

This is a new and wonderful way to bring more money to our small businesses and support property values in our community. Large Corporate companies who own the hotels do not spend their profits in our community like our local citizens that own short-term rentals.

As a homeowner, I have enjoyed the ability to rent my home short-term which can bring me additional income to aid in better care and maintaining my home. If I were long-term renting my home, I would loose rights and control over my immediate house to a renter that does not always have the same values.

When a long-term renter decides to destroy and vandalize a home in our community, Law Enforcement has not tools to assist in preventing or stopping these crimes and the renters are never brought up on charges for criminal vandalism or

forced to make restitution. Renters can destroy \$10k to \$20k or more in real property damage. This should and would be a federal crime but it's not supported under long-term rentals.

In a short-term rental, when someone breaks house rules, they can be immediately held accountable and resolve the situation at that time with financial charges and / or vacate the premises if needed.

In my experience, this has reduced the need to involve law enforcement and the court system.

A few years ago, I called Denton police about a long-term renter who was actively damaging my property. They explained that it was a Civil issue and the renters had 'owner's rights' to my property which prevented Law enforcement from stopping the vandalism.

To my knowledge and experience in providing rental property, over 50% of long-term rentals have required law enforcement and/or court systems from different illegal situations; but have not experienced or heard of any issues requiring either because of situations with short-term rentals.

As a landowner, I have always care about the Immediate condition of my properties. I.E., I have a Super Host rating of a 4.82 star. Repairs are immediate and property is cleaned thoroughly between every guest.

I hire cleaning services, landscaping and handyman services to keep my property in pristine condition. Through the short-term rental platforms like Airbnb and VRBO, if house rules are not followed IE party's, parking violations they can be fined and charged a fee per house rules. By limiting and controlling any volume or density of short-term rentals is reducing business opportunities and taxes for our existing community. Never has long-term rental property limited by location.


Our community is going to benefit from short-term rentals gathering 8.25% sales tax where we have never been able to receive on long-term rentals. In my opinion, short-term rentals are not in the same category as the hotels. We should take this opportunity to keep our cost and taxes low to entice more professionals to stay in our community in short-term rentals.

--

Mark Haiducek
214-636-2947

We hope these proposed changes will be reconsidered. Thank you for your time and effort on this!

Sincerely,
Lauren Shanahan
817-881-9258

 [Redacted signature]

Manglaris, Angie

From: Mark Haiducek <markhaiducek@gmail.com>
Sent: Tuesday, May 28, 2024 6:15 PM
To: Manglaris, Angie
Subject: Short Term Rentals

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This is a new and wonderful way to bring more money to our small businesses and support property values in our community. Large Corporate companies who own the hotels do not spend their profits in our community like our local citizens that own short-term rentals.

As a homeowner, I have enjoyed the ability to rent my home short-term which can bring me additional income to aid in better care and maintaining my home. If I were long-term renting my home, I would loose rights and control over my immediate house to a renter that does not always have the same values.

When a long-term renter decides to destroy and vandalize a home in our community, Law Enforcement has not tools to assist in preventing or stopping these crimes and the renters are never brought up on charges for criminal vandalism or

forced to make restitution. Renters can destroy \$10k to \$20k or more in real property damage. This should and would be a federal crime but it's not supported under long-term rentals.

In a short-term rental, when someone breaks house rules, they can be immediately held accountable and resolve the situation at that time with financial charges and / or vacate the premises if needed.

In my experience, this has reduced the need to involve law enforcement and the court system.

A few years ago, I called Denton police about a long-term renter who was actively damaging my property. They explained that it was a Civil issue and the renters had 'owner's rights' to my property which prevented Law enforcement from stopping the vandalism.

To my knowledge and experience in providing rental property, over 50% of long-term rentals have required law enforcement and/or court systems from different illegal situations; but have not experienced or heard of any issues requiring either because of situations with short-term rentals.

As a landowner, I have always care about the Immediate condition of my properties. I.E., I have a Super Host rating of a 4.82 star. Repairs are immediate and property is cleaned thoroughly between every guest.

I hire cleaning services, landscaping and handyman services to keep my property in pristine condition. Through the short-term rental platforms like Airbnb and VRBO, if house rules are not followed IE party's, parking violations they can be fined and charged a fee per house rules. By limiting and controlling any volume or density of short-term rentals is reducing business opportunities and taxes for our existing community. Never has long-term rental property limited by location.

Our community is going to benefit from short-term rentals gathering 8.25% sales tax where we have never been able to receive on long-term rentals. In my opinion, short-term rentals are not in the same category as the hotels. We should take this opportunity to keep our cost and taxes low to entice more professionals to stay in our community in short-term rentals.

--

Mark Haiducek
214-636-2947

Manglaris, Angie

From: Bob Bobo <bbobo@therapyspacestx.com>
Sent: Wednesday, May 29, 2024 12:00 PM
To: Manglaris, Angie; Bodine, Matt
Cc: hbobo@therapyspacestx.com
Subject: Feedback on the proposed 100-foot Rule for Short Term Rentals

Follow Up Flag: Follow up
Flag Status: Flagged

This message has originated from an **External Source**. Please be cautious regarding links and attachments.

We are unable to be at the P&Z meeting this evening but wanted to submit our feedback.

I appreciate all the work the city has done to clarify the landscape for the short-term rental market in Denton. The city has a reasonable handle on the issues and is acting for the good of all residents.

However, I have a concern regarding the proposed 100-foot rule for short-term rentals. This rule could unfairly put Airbnb owners at risk of losing their business simply for not being first in line for registration renewal.

I believe a better approach would be to set a percentage limit in the zone-to-area. This would ensure a fair distribution and avoid penalizing owners based on their timing of registration.

Thank you for considering my feedback.

Best regards,

Bob and Heather Bobo

On Monday, May 20, 2024 at 12:01 PM, Manglaris Angie <Angie.Manglaris@cityofdenton.com> wrote:

Good morning,

This is Angie Manglaris and Matt Bodine from the City of Denton Planning Division. You have previously indicated interest in the City's Short-Term Rental Code Amendment Project, and we wanted to reach out to you regarding our upcoming Town Hall and future Public Hearings for the project.

A Town Hall will be held on May 23, 2024, at 6:30 p.m., at the Development Service Center, 401 N. Elm Street, to discuss the proposed amendments with the community with opportunities to ask questions directly to city staff.

Further discussions are scheduled for the Planning and Zoning Commission meeting on May 29, 2024, and the City Council meeting on June 4, 2024, both starting at 6:30 p.m. These meetings will take place in the City Council Chambers at City Hall, located at 215 E. McKinney St. They

will include public hearings where amendments concerning the regulation of Short-Term Rentals in Denton will be reviewed and considered.

For more information on these meetings or the proposed amendments to Short-Term Rental regulations, please visit: www.discussdenton.com/short-term-rentals

As always, please feel free to contact us with additional questions.

Respectfully,

Angie Manglaris, AICP

Development Review Manager

Department of Development Services

[401 N. Elm Street, Denton, Texas 76201](#)

Office: (940) 349-8381

Matt Bodine | Assistant Planner

Development Services Planning Division

matt.bodine@cityofdenton.com

Desk: (940) 349-8921

www.cityofdenton.com



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING THE DENTON DEVELOPMENT CODE, REGARDING SHORT-TERM RENTAL USE REGULATIONS AND DEFINITIONS, SPECIFICALLY AMENDMENTS TO TABLE 5.2-A- TABLE OF ALLOWED USES, SUBSECTION 5.3.1 USE-SPECIFIC STANDARDS – GENERALLY, SUBSECTION 5.3.5: COMMERCIAL USE-SPECIFIC STANDARDS, TABLE 7.9-I PARKING, AND SECTION 9.2: DEFINITIONS; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (DCA23-0002g)

WHEREAS, pursuant to Ordinance No. DCA18-0009q, the City Council of the City of Denton adopted the newly revised 2019 Denton Development Code, (the “DDC”); and

WHEREAS, the Development Code Review Committee (the “DCRC”) met eleven times from March of 2023 to January of 2024 and carefully considered a variety of regulatory concepts; and

WHEREAS, as part of DCRC’s deliberations, City staff was directed to research the nature and extent of short-term rentals in the City of Denton, conduct a public survey, and amend the DDC to provide regulatory options which provide opportunities for conducting short-term rentals while also protecting residential neighborhoods where short-term rentals may be a disruptive land use; and

WHEREAS, City staff have reviewed data and information from other cities’ experiences with short-term rentals and have used this data and information to develop a regulatory structure suitable for and responsive to the needs and interests of the City of Denton; and

WHEREAS, City staff presented the results of the short-term rental preference survey, reflecting a desire in residents to maintain the integrity of single-family areas while allowing higher densities of short-term rentals within certain areas of the city; and

WHEREAS, the regulation of the use and operation of short-term rentals in residential zoning districts is consistent with the 2040 Comprehensive Plan’s goal of ensuring the continued viability of Denton’s established neighborhoods through thoughtful conservation; and

WHEREAS, the City finds that mixed-use and nonresidential zoning districts are more appropriate for short-term rental operation because: medium and higher density residential uses are dispersed throughout these zoning districts; short-term rental operations are less disruptive in these districts due to the density and variety of existing uses; and the locations likely to draw short term rental users – such as universities and downtown Denton - are located in these zoning districts; and

WHEREAS, the City finds that a short-term rental registration cap within residential districts, and no short-term rental registration cap in mixed-use and nonresidential districts would enable the City to both preserve and protect existing neighborhoods and encourage short-term rental operations in appropriate zoning districts; and

WHEREAS, the amendments proposed include the following:

1. Table 5.2-A: Table of Allowed Uses – Update table to show Short-Term Rentals as a permitted use in all zoning districts which allow residential uses.
2. Subsection 5.3.1 Use-Specific Standards – Generally – related to maximum persons occupying a dwelling unit.
3. Subsection 5.3.5: Commercial Use-Specific Standards – related to the regulations and permitting of Short-Term Rental Uses.
4. Table 7.9-I: Parking – related to parking requirements for Short-Term Rental Uses.
5. Section 9.2: Definitions – clarify definitions related to Short-Term Rental Uses.

WHEREAS, on March 20, 2024, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, gave the requisite notices by publication, held due hearings, and recommended Approval [7-0] of the amendment to the Denton Development Code; and

WHEREAS, following the March 20, 2024, Planning and Zoning Commission meeting, and due to continually evolving litigation surrounding short-term rentals, staff determined it necessary to conduct a broader public notification process for the Code amendments by providing a mailed notice to property owners potentially affected by the proposed zoning changes in all zoning districts, except Light Industrial, Heavy Industrial and Public Facilities as well as some older Planned Developments, which do not allow for the use under current or proposed regulations, totaling of 29,371 notices mailed to property; and

WHEREAS, on May 29, 2024, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, gave the requisite notices by publication, held due hearings, and recommended approval [5-0] of the amendment to the Denton Development Code; and

WHEREAS, on June 4, 2024, the City Council likewise conducted a public hearing in accordance with local and state law, and determined it necessary for additional public engagement and continued the public hearing to July 23,2024; and

WHEREAS, City staff completed additional public engagement by meeting with the Texas Realtor Association and interested residents on June 20, 2024; and

WHEREAS, on July 23, 2024, the City Council conducted a public hearing in accordance with local and state law and the City Council hereby finds that the Code amendments are consistent with the City's comprehensive plan, and federal, state, and local law are in best interests of the City of Denton; NOW, THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. Table 5.2-A: Table of Allowed Uses, Subsection 5.3.1 Use-Specific Standards, Subsection 5.3.5. Commercial Use-Specific Standards, Table 7.9-i: Parking, and

Section 9.2: Definitions of the DDC are amended as set forth in **“Exhibit A”** which is attached and fully incorporated herein by reference.

SECTION 3. Any person, firm, partnership, or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by fine in sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated, shall constitute a separate and distinct offense.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Development Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose. For the purposes of compliance and in an effort to treat single-room occupancy short-term rentals the same as entire unit short-term rentals, the current provisions of the Denton Development Code shall extend to single-room short-term rentals from the date of passage of this ordinance to the effective date as specified in Section 6.

SECTION 6. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective August 1, 2024, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____

Exhibit A

Amend 5.2.A Table of Allowed Uses as follows:

Table 5.2-A: Table of Allowed Uses																	
P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply																	
	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Commercial Uses																	
Lodging Facilities																	
Short-Term Rental	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+				5.3.5T

Amend Subsection 5.3.1 Use-Specific Standards as follows:

D. Maximum Persons Occupying a Dwelling

No single dwelling unit shall have more than four unrelated persons residing therein, nor shall any "family" have, additionally, more than four unrelated persons residing with such family. Hotels, motels, bed and breakfast establishments, boarding houses, chapter house, dormitories, Community Homes, Group Homes, Elderly Housing, and Short-Term Rentals are exempt from this requirement. Additionally, any organization or institutional group that receives federal or state funding for the care of individuals is exempt from this requirement.

Amend Subsection 5.3.5 Commercial Use-Specific Standards as follows:

T. Short-Term Rental

1. Registration Requirements

No person or entity shall advertise, offer to rent, or rent, lease, sublease, license, or sublicense a dwelling unit or bedroom within the city as a short-term rental for which a registration has not been properly made and filed with the Development Services Department. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:

- a. Name, address, phone number and e-mail address of the property owner and the management company (if applicable) of the short-term rental property;
- b. Verification that the proposed short-term rental dwelling unit or bedroom is managed by the property owner or by a management company;
- c. Name, address, phone number and e-mail address of the designated Local Emergency Contact;
- d. If the applicant does not own the property where the short-term rental is located, the registrant must provide written authorization, signed by the property owner before a notary public, authorizing the registrant to operate a short-term rental on the premises.

- e. A submission of a sketch floor plan of the dwelling unit or bedroom with dimensional room layout; and
- f. A site plan/survey of the property indicating maximum number of vehicles that can be legally parked on the property, without encroaching onto streets, sidewalks or alleys, other public rights-of-way or public property. The site plan/survey is required to ensure compliance with Section 5.3.5T.2.c.

2. Registration Certificates

a. Residential Zoning Districts

- i. One thousand (1,000) Registration Certificate Limit. The Department of Development Services shall issue a maximum of one thousand (1,000) short-term rental registration certificates per calendar year in Residential Zoning Districts (RR-R7). Registration certificates are per short-term rental unit, and the registration certificate cap applies to all residential use types (including multi-family) in residential districts.
- ii. The Department of Development Services shall process applications in the order of receipt and shall issue new registration certificates in the order that complete applications are received.
- iii. If the number of registration certificates reaches the one thousand (1,000) registration certificates, then the Department of Development Services shall stop processing applications and add applicants to a waiting list.
- iv. A maximum of two (2) short-term rental registration certificates may be issued per parcel.
- v. A short-term rental unit cannot be within 100 feet of an existing short-term rental unit, measured at the property boundary. This does not apply to units on the same parcel.
- vi. All short-term rental registration certificates expire on December 31 of each calendar year.
- vii. Renewal season takes place from November 1 through December 31 of each year. Only renewal applications are accepted during this time.

b. Non-residential Zoning Districts

- i. Registered short-term rentals in non-residential zoning districts do not count toward the one thousand (1,000)- registration certificate cap.
- ii. In multifamily developments, no more than 10% of the units within a given development may be registered as a short-term rental.
- iii. At least two (2) short-term rental units shall be allowed per multifamily development.
- iv. Short-term rentals within non-residential zoning districts are not subject to the 100-foot separation rule.

3. Operation

a. External Signage

There shall be no external on-site or off-site advertising signs or displays indicating the property is a short-term rental.

b. Limit on Occupants Allowed

No more than two adult guests per bedroom, plus no more than two additional adults shall be allowed when renting a property as a short-term rental, except that there shall be a maximum occupancy of 10 persons, adults, and children.

c. Limits on Number of Vehicles

The maximum number of vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces.

d. Advertisements and Contracts

Any advertisement of the property as a short-term rental and all rental contracts must contain language that specifies: the allowed maximum number of occupants; maximum number of vehicles; and states that the short-term rental may not be used for the sole or primary purpose of having a party venue (e.g. wedding reception, concert, bachelor or bachelorette party, or any similar activity that would assemble large numbers of attendees).

e. Restrictions and Enforcement

The following actions are violations of this DDC and are enforceable as established in Section 1.6 Enforcement Actions.

- i. To advertise, offer, operate or allow to be operated as a short-term rental without first registering, in accordance with this DDC, the property in which the rental is to occur;
- ii. To operate a short-term rental that does not comply with all applicable city and state laws and codes;
- iii. To operate a short-term rental without paying the required hotel occupancy taxes;
- iv. To offer or allow the use of a short-term rental for the sole or primary purpose of having a party venue (e.g., wedding reception, concert, bachelor or bachelorette party, or any similar activity that would assemble large numbers of attendees);
- v. To permit the use of short-term rental for the purpose of: housing sex offenders; operating a structured sober, recovery or other purpose living home or similar enterprise; selling illegal drugs; selling alcohol or another activity that requires a permit or license under the Alcoholic Beverage Code; or operating as a sexually oriented business;
- vi. To fail to update all required registration materials within 30 days if there is a change in Local Emergency Contact, property ownership, or property management company for a registered short-term rental.
- vii. To operate a short-term rental in a vehicle. Refer to Chapter 17, Section 17-2 of the City's Municipal Code of Ordinances for the definition of vehicle and

Section 17-101.A (12) prohibiting the use a vehicle for living or sleeping quarters;

- viii. To operate a short-term rental within a non-permanent structure;
- ix. To not have a Local Emergency Contact available to respond to complaints; and
- x. To not correct any violation(s) found during inspection.

4. Written Briefing and Safety Features

a. Informational Written Briefing

Each registrant operating a short-term rental shall provide to guests, in writing, a brochure or e-brochure that includes:

- i. The contact information of the designated Local Emergency Contact;
- ii. Pertinent neighborhood information including, but not limited to, parking restrictions, restrictions on noise and amplified sound, and trash collection schedules; and
- iii. Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non-emergency telephone numbers for police, fire, and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates.

b. Safety Features

Each short-term rental registrant shall provide, in the premises, working smoke detectors in accordance with adopted codes, at least one working carbon monoxide detector and alarm, and one working fire extinguisher. The premises shall, otherwise comply with all applicable City regulations, including but not limited to Building and Fire Codes.

5. Notification of Approval of Short-Term Rental Registration

Within 10 days of the approval of a short-term rental registration, the city shall send notice to all property owners within 100 feet of the subject property, and shall include the contact information of the designated Local Emergency Contact, and pertinent information about standards regulating short-term rentals.

6. Registration Term, Fees, and Revocation

- a. All short-term rental registrations approved under this DDC shall expire on December 31 of each calendar year.
- b. The fee for registration of a short-term rental is identified in the City's adopted fee Schedule.
- c. In lieu of the revocation standards in Subsection 1.6.5B.4, the Director may revoke a short-term rental registration if the registrant has:

- i. Received three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises within the preceding 12-month time period. Examples of such violations include, but are not limited to, noise violations, trash and debris violations, violations for parking vehicles in a manner that impedes the sidewalk or is on an unimproved surface; or
 - ii. Knowingly permitted three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises by any other person within the preceding 12-month time period; or
 - iii. Knowingly made a false statement on the registration application.
- d. Notice of the revocation shall be given to the registrant in writing, served by certified United States mail to the registrant's mailing address on record. The revocation shall become effective fourteen (14) days from the date of mailing.
- e. The Director's decision is final unless the owner files a written appeal pursuant to the procedures established in Subsection 2.8.3: *Appeal of Administrative Decision*.
- f. In the event registrant's short-term rental registration is revoked by the Director and the registrant fails to successfully appeal the Director's decision, no second or additional registration shall be issued for a short-term rental on the premises for 12 months of the date such registration was revoked.

7. Right to Inspect Premises

The City of Denton reserves the right, with reasonable notice to the owner or property management company (as applicable), to inspect the dwelling unit or bedroom to determine compliance with this DDC as well as other applicable city codes.

- a. If only a portion of the premises (bedroom) is offered for rent, then that portion, plus shared amenities and points of access, may be inspected.
- b. If, upon completion of an inspection, the premises are found to be in violation of one or more provisions of applicable city codes and ordinances, the city shall provide written notice of such violation and shall set a re-inspection date for a violation to be corrected prior to renewal of registration.
- c. Inspections shall be required within six (6) months for all new registrations, when a registration is transferred to another owner, or when additions or modifications are performed to the property which requires a City building permit. Inspections may be required for renewals or upon a violation of any ordinance of the city, state, or federal law.
- d. Inspections shall occur between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, the building official or designee may enter the short-term rental at any time and upon presentation of identification without the owner's permission.

Amend Table 7.9-I: Minimum Off-Street Parking as follows:

Short-Term Rental: The maximum number of vehicles allowed at a short-term rental shall be limited to the number of available off-street parking spaces.

Amend Section 9.2: Definitions as follows:

Modify the following terms and definitions:

Short-Term Rental: The rental of an entire dwelling unit or bedroom for monetary consideration for a period of time not less than 24 hours and not more than 29 consecutive days, not including a bed and breakfast, boarding or rooming house, hotel, or motel. This definition does not include offering the use of one's property where no fee is charged or collected.

Local Emergency Contact: The property owner, registrant, or individual designated by the property owner who is available on a 24-hour basis, have access to the Short-Term Rental Property, and be authorized to address any complaints, disturbances, and emergencies.

DCA23-0002g: Short-Term Rentals

Angie Manglaris, AICP
Development Review Manager
July 23, 2024



File ID: DCA23-0002g

07/23/2024

779

Current State of Short-Term Rentals

LODGING FACILITIES	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Bed and Breakfast	p+				S+	S+	S+	p+	p+	p+	p+						5.3.5S
Boarding or Rooming House								S	P	P	P						
Hotel								P	P	P	P	P	P	P			
Motel										P	P	P	P	P			
Short-Term Rental	p+	p+	p+	p+	p+	p+	p+	p+									5.3.5T

- Defined as rental of an **entire dwelling unit** for monetary consideration for a period of time **less than 30 consecutive days**, not including a bed and breakfast, boarding or rooming house, hotel, or motel. This definition does not include offering the use of one's property where no fee is charged or collected.
- **Registration required** to operate – currently 33 of estimated 250 registered
- Local Emergency Contact required
- **No registration certificate cap** for Short-Term Rentals
- Hotel Occupancy Tax (HOT) remittance required (per Ordinance 96-136)

Proposed Amendments

Table 5.2-A: Table of Allowed Uses																	
P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply																	
	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Commercial Uses																	
LODGING FACILITIES																	
Short-Term Rental	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+				5.3.5T

Amend Table 5.2.A Table of Allowed Uses to allow STRs as a permitted use in any Zoning District that allows residential uses by right or by Specific Use Permit

Amend Section 5.3 Use-Specific Standards by amending Subsection 5.3.1.D Maximum Persons Occupying a Dwelling Unit to include Short-Term Rentals as an exempt land use from this regulation.

Proposed Amendments – Use Specific Standards

1. **Registration Requirements** – amendments to this Section include: clarification that a single bedroom **or a unit** may be listed as a Short-Term Rental, requirements **to provide management company information** (when applicable), clarifies **Local Emergency Contact** is a defined term in the DDC, and adds additional detail regarding registration submittal requirements.

2. **Registration Certificates** –a proposed addition to the Short-Term Rental Use Specific Standards to address the results of the short-term rental preference survey

1. Registration Requirements

No person **or entity** shall advertise, offer to rent, or rent, lease, sublease, license, or sublicense a **residential property** **dwelling unit or bedroom** within the city as a short-term rental for which a registration has not been properly made and filed with the Development Services Department. Registration shall be made upon forms furnished by the city for such purpose and shall specifically require the following minimum information:

- a. Name, address, phone number and e-mail address of the property owner **and the management company** (if applicable) of the short-term rental **property**;
- b. Verification that the proposed short-term rental **property** **dwelling unit or bedroom** is managed by the property owner or by a management **company**;
- c. Name, address, phone number and e-mail address of the designated **Local Emergency Contact** **local emergency contact**;
- ~~d. The maximum number of occupants permitted for the dwelling unit or sleeping room in accordance with Subsection 5.3.1D: Maximum Persons Occupying a Dwelling;~~
- ~~e.d. If the applicant does not own the property where the short-term rental is located, the registrant must provide written authorization, signed by the property owner before a notary public, authorizing the registrant to operate a short-term rental on the premises.~~
- ~~f.e. A submission of a sketch floor plan of the dwelling unit or bedroom with dimensional room layout; and~~

Proposed Amendments – Use Specific Standards

Registration Certificates in Residential Zoning Districts

- One thousand (1,000)- Registration Certificate Limit. The Department of Development Services shall issue a **maximum 1,000 STR registration certificates** per calendar year.
- A **maximum of two (2)** STR registration certificates may be issued per parcel.
- A short-term rental **unit cannot be within 100 feet of an existing short-term rental unit**, measured at the property boundary. Does not apply to units on the same parcel.

Registration Certificates in Non-Residential Zoning Districts

- Registered Short-Term Rentals (STR) in Non-Residential Zoning Districts **do not count toward the 1,000-registration certificate cap.**
- For multifamily developments, **no more than 10% of the units** within a given development may be registered as a Short-Term Rentals.
- At least two (2) Short-Term Rentals shall be allowed per multifamily development.
- **Not subject to the 100-foot separation rule.**

Proposed Amendments – Use Specific Standards

4. ***Written Briefing and Safety Features*** –clarify an owner’s or management’s responsibilities to **provide safety information to guests in writing.**

5. ***Notification of Approval of Short-Term Rental Registration*** –clarify **when notification** of an approved Short-Term Rental shall occur and **what information shall be included** within the notification.

Brochure-Written Briefing and Safety Features

a. **Informational Brochure-Written Briefing**

Each registrant operating a short-term rental shall provide to guests, in writing a brochure or e-brochure that includes:

i. The ~~registrant’s 24-hour~~ contact information of the designated Local Emergency Contact;

ii. ~~A local responsible party’s 24-hour contract information if the owner is not within the city limits when guests are renting the premises;~~

Notification of Approval of Short-Term Rental Registration

Within 10 days of the approval of a short-term rental registration, the city shall send notice to all property owners within 100 feet of the subject property, and shall include the contact information of the designated Local Emergency Contact-24-hour complaint line, and pertinent information about standards regulating short-term rentals.

Proposed Amendments – Use Specific Standards

6. **Registration Term, Fees, and Revocation** –revise and clarify the circumstances under which the Director may **revoke a Short-Term Rental permit**
7. **Right to Inspect Premises** - specify the circumstances under **which an inspection of a Short-Term Rental may occur.**

- c. The Director may revoke a short-term rental registration if the registrant has:
 1. Received three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises within the preceding 12-month time period. Examples of such violations include, but are not limited to, noise violations, trash and debris violations, violations for parking vehicles in a manner that impedes the sidewalk or is on an unimproved surface; or
 2. Knowingly permitted three notices for violations of the Property Maintenance Code or citations for violations of the Denton Development Code, any other ordinance of the city, or any state or federal law on the premises by any other person within the preceding 12-month time period; or
 3. Knowingly made a false statement on the registration application.

Proposed Amendments

- **Table 7.9-1: Minimum Required Off-Street Parking** –specify the maximum number of vehicles allowed on premise for a Short-Term Rental shall limited to available off-street parking
- **Section 9.2 Definitions** – revise the following definitions:
 - *Short-Term Rental* –clarify the duration of stay for a Short-Term Rental shall be **not less than 24 hours and not greater than 29 consecutive days**, as well as **allow for a bedroom** to be a Short-Term Rental
 - *Local Emergency Contact* – this definition is amended to **clarify and consolidate the requirements** for Local Emergency Contact.

Updates Since June 4, 2024 City Council meeting

- Staff met with representatives of the Greater Denton/Wise County Realtors Association on June 20, 2024
 - Approximately 18 individuals in attendance (realtors, STR owners/operators and residents)
- Primary concerns expressed by the Association included:
 - 1,000-unit registration cap in residential districts
 - 100-ft separation requirement in residential districts
 - All units within a triplex or fourplex not being able to register in residential districts due to 2 unit per parcel maximum
- Subsequent written response provided states the Association prefers City's current adopted regulations; not support the proposed Code amendments.
- No changes have been made to the proposed ordinance since the June 4, 2024 meeting

Recommendation

Planning and Zoning Commission considered this item at their May 29, 2024, meeting and recommended approval of the Code Amendments as presented.

Staff recommends **approval** of the amendments related to Short-Term Rental regulations as the proposed amendments meet the established criteria for approval for Code Text Amendments as outlined in Section 2.7.4D of the DDC.

Questions?



City of Denton

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

Legislation Text

File #: Z24-0008a, Version: 1

AGENDA CAPTION

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a request to rezone approximately 7.8 acres of land from Rural Residential (RR) District to Light Industrial (LI) District generally located approximately 400 feet south of US 380 and approximately 1,300 feet west of N. Masch Branch Road in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Ellis and seconded by Commissioner Pruett. (Z24-0008a, Billingsley D&D Inc.- RR to LI, Erin Stanley)



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

ACM: Cassey Ogden

DATE: August 6, 2024

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a request to rezone approximately 7.8 acres of land from Rural Residential (RR) District to Light Industrial (LI) District generally located approximately 400 feet south of US 380 and approximately 1,300 feet west of N. Masch Branch Road in the City of Denton, Denton County, Texas; adopting an amendment to the City's official zoning map; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Ellis and seconded by Commissioner Pruett. (Z24-0008a, Billingsley D&D Inc.– RR to LI, Erin Stanley) [Jun 26, 2024 Planning and Zoning Commission on 2024-06-26 5:00 PM - Denton, TX \(swagit.com\)](#)

BACKGROUND

The applicant, Rhonda Hurst of Eikon Consulting Group LLC, on behalf of the property owners Thimphu Development Ltd; Crow-Billingsley Denton GHB, Ltd; and Crow-Billingsley Denton LPB, Ltd, has submitted an application to rezone approximately 7.8 acres of land from a Rural Residential (RR) District to a Light Industrial (LI) District to match the surrounding zoning designation of Light Industrial (LI) District to allow for future industrial development. The subject property is currently undeveloped; however, based on historic aerial images, the site has previously been developed with a gas well that has since been plugged. An area of unassessed Floodplain and Riparian Buffer Environmentally Sensitive Areas (ESA) has been identified on the eastern portion of the site.

The subject property was annexed into the City in 2010 along with several other properties in this area of the City. Following annexation, the property was assigned the placeholder zoning designation "RD-5X" under the 2002 Denton Development Code (DDC). The zoning of the property transitioned to RR with the adoption of the 2019 DDC.

The surrounding properties are either zoned LI or located in the City's Extraterritorial Jurisdiction (ETJ). Property to the west of the subject property was annexed into the City at the same time as the subject property and was recently rezoned from RR to LI in early 2024 for the development of Equipment Sales and Rental use (reference projects Z23-0014 and S24-0001). Parcels to the north were annexed in 1974 and are zoned LI today. Property to the south and east is also zoned LI and was annexed in 2002. Bordering the southeastern edge of the subject property is a portion of the City's ETJ, subject to a Non-Annexation Agreement (NAA).

No development plan for the subject property has been submitted at this time. If this zoning change were approved, any use permitted under the LI District could be developed on the subject property. See Exhibit 8 for a complete list of permitted uses.

A full Staff Analysis is provided in Exhibit 2.

PLANNING AND ZONING COMMISSION

On June 26, 2024, the Planning and Zoning Commission held a public hearing and voted [5-0] to recommend approval of the zoning change. Motion for approval was made by Commissioner Ellis and seconded by Commissioner Pruett. No questions were asked by the Commission. No members of the public spoke.

OPTIONS

1. Recommend approval
2. Recommend denial
3. Postpone Item

RECOMMENDATION

Staff recommends **approval** of the rezoning of approximately 7.8 acres of land to a Light Industrial (LI) Zoning District as it complies with the criteria in Section 2.4.5.E of the Denton Development Code for approval of all applications and Section 2.7.2.D of the DDC for approval of a Zoning Map Amendment (Rezoning).

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
February 9, 2010	City Council	Public Hearing, and First Reading of the Annexation Ordinance	Public Hearing held, and First Reading conducted
May 4, 2010	City Council	Second Reading and consideration of Annexation Ordinance	Second Reading conducted, and Annexation Ordinance approved [2010-122]
June 26, 2024	Planning and Zoning Commission	Rezone from Rural Residential (RR) to Light Industrial (LI)	Recommended Approval

PUBLIC OUTREACH:

The following public outreach efforts were done to meet legal notice requirements and to seek feedback from adjacent property owners and residents:

- A total of six (6) notices were mailed out to property owners within 200 feet of the subject property, and three (3) postcards were mailed out to current residents within 500 feet of the subject property. As of the writing of this report, staff has received two responses in favor of the request, representing 76% of the surrounding property within City limits. See Exhibit 9 for responses.
- A notice was published on the City's website on June 6 and July 18, 2024.
- A notice was published in the Denton Record Chronicle on June 9 and July 20, 2024.

- Two signs were posted on the subject property on June 7, 2024.
- Due to there being a low number of surrounding property owners, instead of holding a neighborhood meeting the applicant attempted to contact adjacent property owners with no success.

DEVELOPER ENGAGEMENT DISCLOSURES

No developer contact disclosures have been provided to staff from members of this body as of the issuance of this report.

EXHIBITS

Exhibit 1 - Agenda Information Sheet
Exhibit 2 - Staff Analysis
Exhibit 3 - Applicant's Project Narrative
Exhibit 4 - Site Location Map
Exhibit 5 - Future Land Use Map
Exhibit 6 - Existing Zoning Map
Exhibit 7 - Proposed Zoning Map
Exhibit 8 - Table of Allowed Uses
Exhibit 9 - Notification Map and Responses
Exhibit 10 - Sign Posting Affidavit and Photos
Exhibit 11 - Draft Ordinance
Exhibit 12 - Presentation

Respectfully submitted:
Tina Firgens, AICP
Deputy Director of Development Services/
Planning Director

Prepared by:
Erin Stanley
Assistant Planner

Planning Staff Analysis

Z24-0008a / Crow-Billingsley Denton – RR to LI

City Council District #3

REQUEST:

Rezoning of approximately 7.8 acres of land to a Light Industrial (LI) Zoning District.

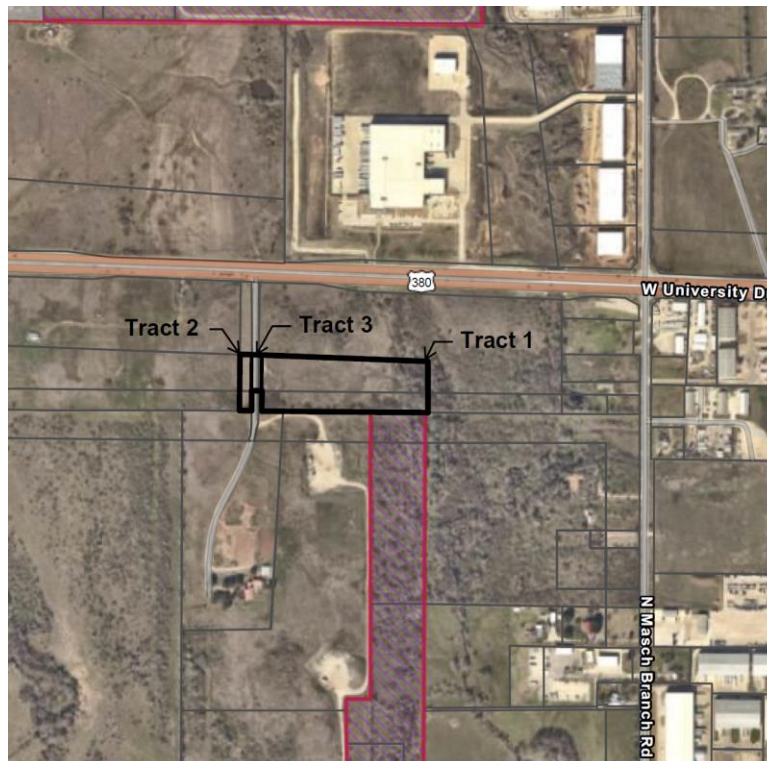
STAFF RECOMMENDATION:

Staff recommends **approval** of the rezoning of approximately 7.8 acres of land to a Light Industrial (LI) Zoning District as it complies with the criteria in Section 2.4.5.E of the Denton Development Code for approval of all applications, and Section 2.7.2.D of the DDC for approval of a Zoning Map Amendment (Rezoning).

SITE DATA:

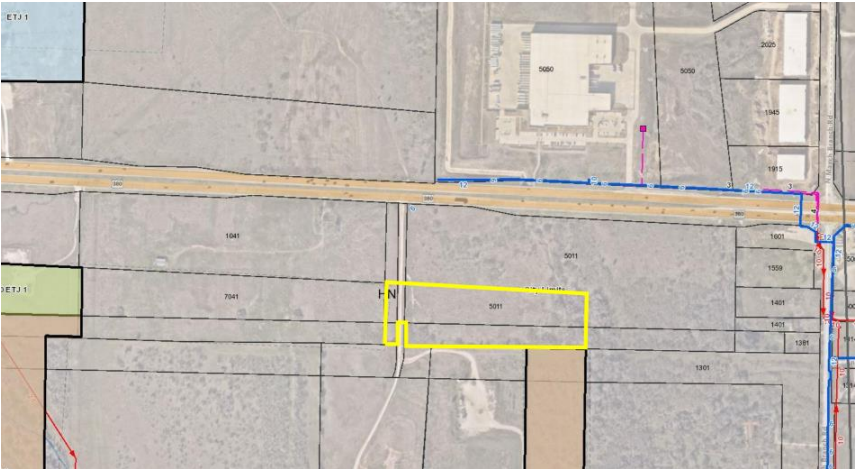
The subject property is currently undeveloped besides one gas well, which was located on the northern boundary of the subject property and was plugged in 2018. The property owners intend to develop the property with an Industrial use in conjunction with the surrounding property to the north and south; however, no development application has been made at this time.

The subject property is located approximately 400 feet south of US 380, a freeway and approximately 1,300 feet west of Masch Branch Road, a Secondary Arterial. The subject property does not have frontage on a public road.

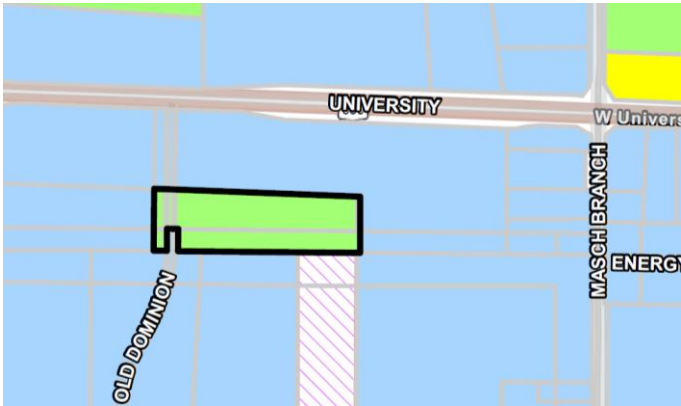


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Currently there are utility services in the general area but not extended to the subject property, with water to the north and sewer to the east and southwest as indicated by the blue and red lines, respectively, on the inset map below. When the site develops, the owner will be responsible for extending the necessary utilities. While no development applications have been made at this time, the owners of the subject property own the larger area to the north and south, which would facilitate extending or connecting to utilities. The extension and size of the services would be determined during the preparation of civil engineering plans and platting of future development.



SURROUNDING ZONING AND USES:



Northwest: Zoning: Light Industrial (LI) Use: Undeveloped Land	North: Zoning: LI Use: Undeveloped Land and Gas Well (Plugged)	Northeast: Zoning: LI Use: Undeveloped Land and Gas Well (Plugged)
West: Zoning: LI Use: Undeveloped Land	SUBJECT PROPERTY	East: Zoning: LI Use: Undeveloped Land
Southwest: Zoning: LI Use: Undeveloped Land	South: Zoning: LI Use: Gas Well and Rural Residential	Southeast: Zoning: Extraterritorial Jurisdiction (ETJ)/Non-Annexation Agreement (NAA) Use: Rural Residential and Agriculture

CONSIDERATIONS:

A. Section 2.4.5.E of the DDC provides approval criteria applicable to all applications.

1. *General Criteria*

- a. *Unless otherwise specified in this DDC, City review and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below.*

The review criteria were applied as required.

- b. *The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9.*

Section 2.7.2.D of the DDC applies to this rezoning request. An analysis of this request per those criteria can be found below in Consideration B.

- c. *If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls.*

There are no conflicts between the general criteria and the criteria specific for zoning requests.

2. *Prior Approvals*

On May 4, 2010, the subject property was annexed into the city.

3. *Consistent with the Comprehensive Plan and Other Applicable Plans*

The decision-making authority:

- a. *Shall weigh competing goals, policies, and strategies.*
There are no competing goals, policies, or strategies associated with this proposal.
- b. *May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.*

Comprehensive Plan

The proposed LI Zoning District is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use Designations of Light Industrial and Industrial Commerce, including the goals and actions listed below:

GOAL FEV-2: Improve the City's job-to-worker ratio by increasing the number of jobs available to the resident workforce and local graduates.

GOAL FEV-5: Design a fiscally advantageous land use pattern paired with fiscally responsible infrastructure management and investment.

Action 3.1.1: Ensure adequate land for future economic growth, particularly in the non-residential future land use categories, including a sufficient buffer zone to adjacent protected land uses.

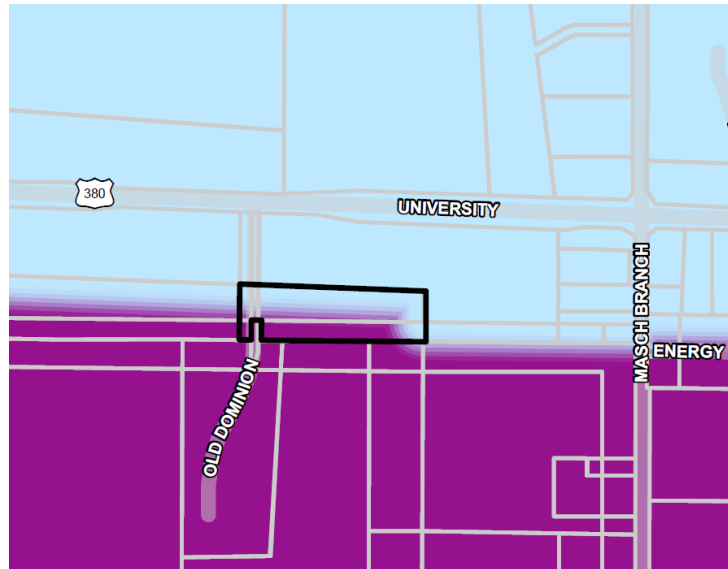
According to the applicant, the purpose of the rezoning request is to be consistent with the surrounding zoning and future land use and eventually facilitate the development of a Light Industrial use on the subject property and adjacent property under common ownership. While plans for development have yet to be submitted, the light industrial uses permitted in the LI District are consistent with the overall goals of the Comprehensive Plan to provide for a robust and diverse economy and increase jobs within Denton. Additionally, given the surrounding zoning pattern and the proximity of more intensive uses such as gas well drilling and production sites and the equipment sales and rental use for which a SUP was recently approved on property to the west, the potential for any nuisance or compatibility issues to arise from uses permitted in LI are limited, which aligns with Action 3.1.1 cited above.

Future Land Use

Per the Future Land Use Map in the Comprehensive Plan, the subject property is designated as Light Industrial and Industrial Commerce (see image below and provided as Exhibit 5). The description for the Future Land Use designations are provided below.

The Light Industrial designation is intended for tracts of land that are appropriate for light industrial activity. Primary uses include light manufacturing, assembling, and warehousing and distribution, and include associated supporting uses, such as offices, retail, and restaurants. Light Industrial areas should have adequate access to infrastructure, including the transportation network. It is important in future development that transitions to adjacent sensitive land uses are considered.

Industrial Commerce applies to areas where the predominant uses include both light and heavy industrial uses, such as moderate to heavy manufacturing, assembly, fabrication, and wholesaling. Distribution warehouses may be included in this designation if used to replace underutilized and heavy industrial uses, or if ultimately reused to house future industrial development. This designation is located primarily west of I-35W near the Denton Municipal Airport. It is important in future development that transitions to adjacent sensitive land uses are considered.



The LI Zoning District is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use Designations of Light Industrial and Industrial Commerce. The LI Zoning District primarily permits manufacturing and warehouse uses, but also permits some commercial and office uses which may be appropriate in areas of transition and along major roadways.

4. *Compliance with this DDC*

- a. *The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.*

The proposed rezoning would facilitate the development of the subject property in accordance with the DDC's standards and in a manner consistent with adjacent properties. The subject property would be challenging to develop under the current Residential Rural zoning. The parcels do not front an existing public street, and per DDC 8.3.2A.11, full access to a site across a property must occur through a zoning district that allows the proposed use. The property located between the subject property and US 380 is zoned Light Industrial, which does not permit any residential uses. Therefore, access to US 380 could not be taken through the property to the north for any residential uses unless a subdivision variance were to be approved by the Planning and Zoning Commission.

All future development on this site will comply with applicable standards in the DDC, including, but not limited to, minimum lot size and dimensions, building coverage, access, parking, tree preservation, landscaping, screening, and buffering.

- b. *Compliance with these standards is applied at the level of detail required for the subject submittal.*

Typically, a rezoning to one of the DDC's established districts does not include a full review of all development standards. If the proposed rezoning to a LI Zoning District is approved, prior to development, a detailed development review will be performed with the required applications such as a specific use permit or zoning compliance plan, plat, civil engineering plan, tree preservation plan, and building permit.

5. *Compliance with Other Applicable Regulations*

If the proposed rezoning to a LI Zoning District is approved, prior to development, a detailed review of the proposed development will be conducted to ensure compliance with other applicable regulations.

6. *Consistent with Interlocal and Development Agreements*

There are no interlocal or development agreements for the subject property.

7. *Minimizes Adverse Environmental Impacts*

The eastern portion of the subject property contains unassessed Floodplain and Riparian Buffer Environmentally Sensitive Areas (ESA) as indicated by the tan and blue shading, respectively, on the inset map below. Any development of the subject property would be subject to the City's standards for ESA preservation, tree preservation, stormwater, and landscaping to ensure environmental impacts are minimized.

Wildlife Corridors

The Denton 2040 Comprehensive Plan established Key Action item #127: "Identify and map wildlife corridors throughout the City to be addressed within three years of Plan adoption." The creation of this map was accomplished last year, providing an informational resource for the City to understand paths wildlife are likely to utilize throughout the City based upon two factors: first, the locations of existing natural resources such as ESAs which have been mapped as "greenspace," and second, direct paths that link greenspaces throughout the City and that may be useable by wildlife, which are shown as the "wildlife corridors". It is important to note that although the Comprehensive Plan called for the creation of this map, the map is not a part of the Comprehensive Plan nor is it codified in any way, so it is merely an informational tool.

The City's Wildlife Corridor Map indicates the presence of a wildlife corridor that runs through the subject property from east to west, indicated by the green line, shown in the map below, connecting the ESA to the east with ESA further west of the subject property.

(continued on next page)

11. *Provides Adequate Road Systems*

Ingress and egress to the property will be taken through the adjacent property to the north from US 380 – a freeway. When the site is developed, new development must comply with all applicable standards.

12. *Provides Adequate Public Services and Facilities*

This proposed rezoning is not anticipated to negatively impact public services and facilities. When sites are developed, the new development must comply with all applicable standards to ensure adequate public services and facilities are available.

13. *Rational Phasing Plan*

There is no phasing plan associated with the zoning change request. According to the applicant, the subject property is part of a larger, 102-acre site that will be developed comprehensively for an industrial use. No development plans have been submitted at this time, but if phasing is proposed, a rational phasing plan will be submitted for review.

B. Section 2.7.2.D of the DDC states that an application for a rezoning may be approved based on the following conditions:

a. The proposed rezoning is consistent with the Comprehensive Plan.

As discussed in 3.b above, the LI Zoning District is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use Designations of Light Industrial and Industrial Commerce.

b. The proposed rezoning is consistent with relevant Small Area Plan(s).

There is no small area plan approved for this site.

c. The proposed rezoning is consistent with the purpose statement of the proposed zoning district, as provided in Subchapter 3, Zoning Districts.

Pursuant to Section 3.5.2A of the Denton Development Code:

The LI district is intended to provide locations for a variety of light industrial and employment uses such as light manufacturing, assembly, fabrication, warehousing and distributing, indoor and outdoor storage, and a wide range of supporting commercial uses and activities. The LI district provides a variety of transportation options for access including transit, bicycle, and pedestrian facilities. The LI district provides appropriate transitions to surrounding uses and lower-intensity districts and is sensitive to the adjacent built and natural context.

Given its location, the property is situated in an area suitable for the LI Zoning District given the access goals noted in the purpose statement. The proposed LI Zoning District is consistent with the purpose statement as the applicant has

indicated that the subject property is intended to be developed with a light industrial use.

- d. *There have been or will be significant changes in the area to warrant a zoning change.*

Over the next several years, properties within this area are expected to develop in a manner that is consistent with the Future Land Use Plan. The property immediately to the west of the subject property was rezoned on March 19, 2024 from RR to LI, and a Specific Use Permit was approved on May 21, 2024 for Equipment Sales and Rental. This zoning change and development of more intensive commercial and industrial uses in the area supports the proposed change of the subject property from RR to LI District to be compatible with adjacent zoning districts and uses. The proposed rezoning would facilitate compatible development and be consistent with the intent that this area develop primarily as industrial and manufacturing uses. Furthermore, since the subject property is currently surrounded by industrial zoning, a residential use would be undesirable in this location.

- e. *The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood.*

The subject property is surrounded primarily by undeveloped agricultural land and both plugged and active gas wells and is surrounded entirely by Light Industrial (LI) zoning. As discussed in Criterion 8 above, two adjacent properties do currently have residential uses. One property is owned by the applicant of this zoning request. The other property is in the City's ETJ, and the residential structure is located approximately half a mile south of the subject property. Therefore, development of the subject property under the proposed LI zoning is not expected to adversely impact surrounding properties.

- f. *Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development.*

Roadway Impact Fees

Roadway impact fees, paid at the time of development, are determined using a proportionality calculation based on the proposed uses and projected vehicle trips. These fees will be assessed based on plans submitted and are used to make roadway system improvements related to the Mobility Plan.

Water and Wastewater

When the site is developed, it will be reviewed to ensure compliance with all utility, service, and improvement standards for extension and connection to City utilities. Additionally, water and wastewater tap, and impact fees will be based upon the intensity of the development and are required to be paid during permitting.

Schools

Residential uses are not permitted in the LI Zoning District, so this change would not result in the addition of any new students.

- g. There was an error in establishing the current zoning district.*

There was not an error in establishing the current zoning district. However, the current RR zoning that resulted from the original placeholder of RD-5x has been inconsistent with the City's goals for this area since the property was annexed in 2010. The Denton Plan 1999-2020 designated the area as an Industrial Center, and the Denton Plan 2030 designated the area in the same way as the 2040 Plan, with Light Industrial uses transitioning to heavier Industrial Commerce going south from US 380 towards the City's airport. The proposed zoning district change is consistent with the anticipated development of light industrial uses in the western area of the city, which has been the land use goal for this area for several decades.

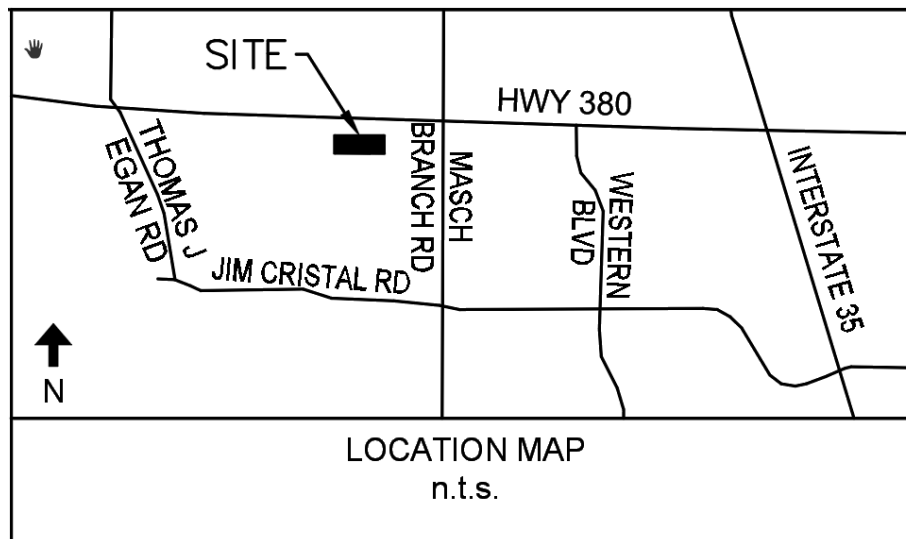
Project Narrative

April 2, 2024

Project Name: Z24-0008– Crow-Billingsley Rezoning Request
+/- 7.8 acre site (portion of the +/- 102 acres project site)

Project Location: +/- 1300 Feet West of Masch Branch
+/- 430 Feet South of Highway 380
Denton Texas

The purpose of the zoning request is to zone 7.8 acres to light industrial and be consistent with current zoning of the adjacent properties and current zoning the overall tract. The zoning request of the 7.8 acres is consistent with the future land use plan in the City of Denton Comprehensive Plan. The area requesting to be rezoned is less than 10 percent of the over all site. When the site (102 acres) makes application for a light industrial development, the required concept plans, traffic impact analysis and financial impact will be submitted in accordance with the requirements of the DDC. The location of the 7.8 acres can be seen on the location map below.



The proposed rezoning request consists of 7.8 acres from three properties (7.081 acres - Tract 1, 0.414 acres Tract 2 and 0.292 Tract 3) and part of six Denton County Central Appraisal District parcels: 676971, 676974, 60815, 36564, 676977 and 676987. The area requesting rezoning is part of a 102-acre tract owned by Crow-Billingsley entities. The remaining 92.4 acres are currently zoned Light Industrial. The area is currently zoned RR – Rural Residential on the current City of Denton Zoning Map. The 7.8 acres is the only property in this area zoned RR. The current zoning is not consistent with the adjacent land and uses. The comprehensive plan on the Future Land Use Map shows the site to be light industrial. Prior to 2019, the area to be re-zoned was zoned RD-5X. The property was shown on the City of Denton Current Land Use Map (dated 8/26/2016) as light industrial and undeveloped.

City of Denton Zoning Criteria (Project Information in Blue)

2.4.5 E Approval Criteria Applicable to all Applications

1. Generally
 - a. Unless otherwise specified in this DDC, the staff, recommending and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below. **Noted**
 - b. The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9. **Noted**
 - c. If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls. **Noted**
2. Prior Approvals

The proposed development shall be consistent with the terms and conditions of any prior land use approval, plan, development agreement, or plat approval that is in effect and not proposed to be changed. This includes an approved phasing plan for development and installation of public improvements and amenities. **To the developer's knowledge, no prior plans or agreements exist for the site.**
3. Consistent with Comprehensive Plan and Other Applicable Plans

The proposed development shall be consistent with the Comprehensive Plan and any applicable plans. The decision-making authority:

 - a. Shall weigh competing plan goals, policies, and strategies; and **Noted**
 - b. May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan. **Noted**
4. Compliance with the DDC
 - a. The proposed development shall comply with all applicable standards in this Decuples the standard is to be lawfully modified. **Future development of the site will be in accordance with the DDC**
 - b. Compliance with these standards is applied at the level of detail required for the subject submittal. **Future development of the site will provide the level of detail as listed in the DDC.**
5. Compliance with Other Applicable Regulations

The proposed development shall comply with all other city regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions. This includes, but is not limited to, wetlands, water quality, erosion control, and wastewater regulations. **Future development of the site will be in accordance with applicable local, state and federal requirements.**
6. Consistent with Interlocal and Development Agreements

The proposed development shall be consistent with any adopted interlocal and applicable development agreements and comply with the terms and conditions of any such agreements

incorporated by reference into this DDC. [Future development of the site will be in accordance with applicable interlocal and development agreements.](#)

7. Minimizes Environmental Impacts

The proposed development should be designed to minimize negative environmental impacts and should not cause significant adverse impacts on the natural environment. Examples of the natural environment include water, air, noise, stormwater management, scenic resources, wildlife habitat, soils, and native vegetation. [Future development of the site will minimize negative environmental impacts.](#)

8. Minimizes Adverse Impacts on Surrounding Property

The proposed development should not cause significant adverse impacts on surrounding properties. The results of the citizen participation process may be appropriately considered under this section. [Future development of the site will minimize adverse impacts to surrounding property. The adjacent properties to the site are currently zoned light industrial.](#)

9. Minimizes Adverse Fiscal Impacts

The proposed development should not result in significant adverse fiscal impacts on the city. [When the total site is ready for development and an application for development is made to the City, the required financial analysis and documentation included with the application. Future development of the site will increase the taxable value of the land from the agriculture use to light industrial use. In addition to that, the site will generate sales tax revenue for the City.](#)

10. Compliance with Utility, Service and Improvement Standards

As applicable, the proposed development shall comply with federal, state, county, service district, city and other regulatory authority standards, and design/construction specifications for roads, access, drainage, water, sewer, schools, emergency/fire protection, and similar standards. [When the total site is ready for development and an application for development is made to the City, the site will be designed and constructed to the current applicable standards.](#)

11. Provides Adequate Road Systems

Adequate road capacity shall exist to serve the uses permitted under the proposed development, and the proposed uses shall be designed to ensure safe ingress and egress onto the site and safe road conditions around the site, including adequate access onto the site for fire, public safety, and EMS services. [When the total site is ready for development and an application for development is made to the City, the site will comply with the current mobility plan and provide adequate interior circulation as required by city regulations.](#)

12. Provides Adequate Public Services and Facilities

Adequate public service and facility capacity shall exist to accommodate uses permitted under the proposed development at the time the needs or demands arise, while maintaining adequate levels of service to existing development. Public services and facilities include, but are not limited to, roads, domestic water, sewer, schools, public safety, fire protection, utilities, libraries, and vehicle/pedestrian connections and access within the site and to adjacent properties. [When the total site is ready for development and an application for development is made to the City, the](#)

developer will work with the City to ensure that adequate public service and facility capacity exist to accommodate the proposed development.

13. Rational Phasing Plan

If the application involves phases, each phase of the proposed development shall contain all of the required streets, utilities, landscaping, open space, and other improvements that are required for that phase, and may not defer those improvements to subsequent phases. When the total site is ready for development and an application for development is made to the City, the developer submit a rational phasing plan.

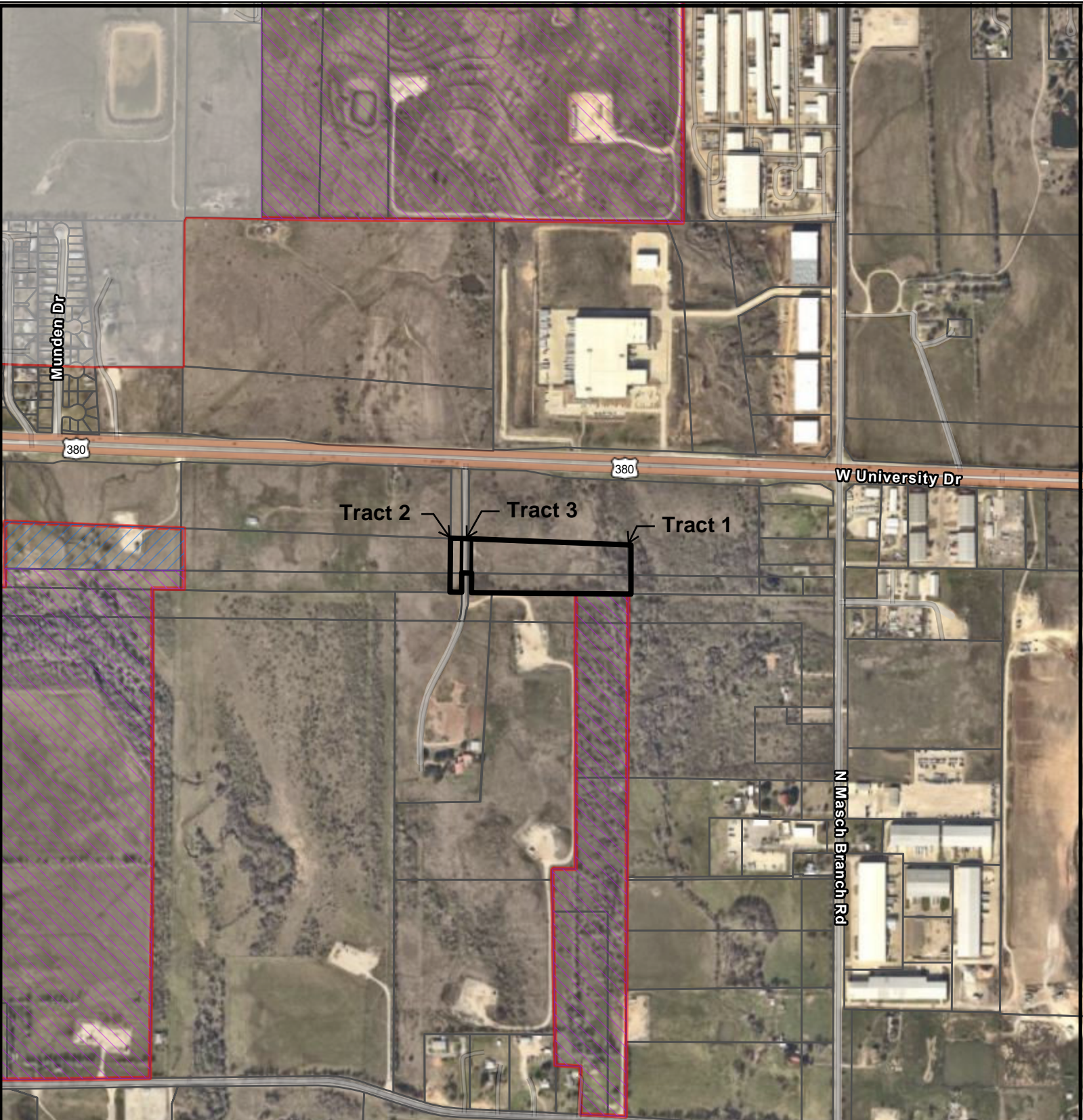
2.7.2 D Zoning Map Amendment Approval Criteria

1. In reviewing a proposed rezoning, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5 and whether:
 - a. The proposed rezoning is consistent with the Comprehensive Plan; The comprehensive plan shows the site to be light industrial on the future land use plan.
 - b. The proposed rezoning is consistent with relevant Small Area Plan(s); N/A
 - c. The proposed rezoning is consistent with the purpose statement of the proposed zoning district, as provided in Subchapter 3: Zoning Districts; The requested zoning is consistent with the light industrial purpose of statement listed in Subchapter 3: Zoning Districts
 - d. There have been significant changes in the area to warrant a zoning change; The adjacent property to the west has been rezoned from RR to light industrial.
 - e. The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood; and The surrounding properties are currently zoned light industrial and future development of the site does not anticipate adverse impacts to the adjacent land.
 - f. Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development; and/or: When the total site is ready for development and an application for development is made to the City, the developer will work with the City to ensure that adequate public service and facility capacity exist to accommodate the proposed development.
 - g. There was an error in establishing the current zoning. N/A

The following documents are being submitted in support of the zoning change request.

Z24-00XX - 1st Submittal - Development Applications.pdf
Z24-00XX - 1st Submittal - Owner Authorization.pdf
Z24-00XX - 1st Submittal - Selaed Legal Descriptions.pdf
Z24-00XX - 1st Submittal -Property Deeds.pdf
Z24-00XX - 1st Submittal - TRACT 3 Legal to be rezoned.docx
Z24-00XX - 1st Submittal - TRACT 2 Legal to be rezoned.docx
Z24-00XX - 1st Submittal - TRACT 1 Legal to be rezoned.docx
Z24-00XX 1st Submittal - Project Narative.pdf
Z24-00XX - 1st Submittal - ZONING EXHIBITS.pdf
Z24-00XX - 1st Submittal - Zoning Change Checklist.pdf

Z24-0008 Site Location



Legend:

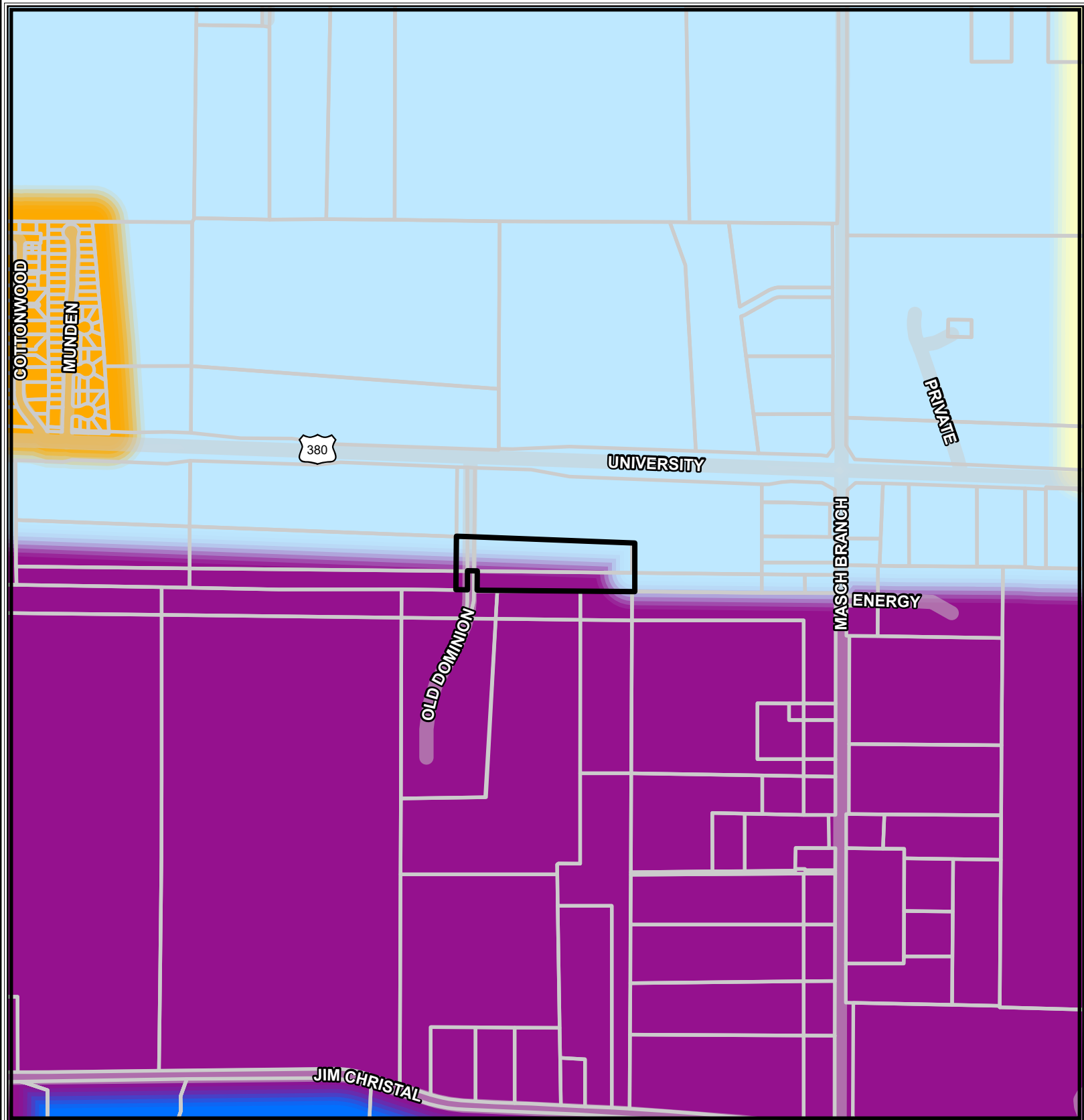
- Roads
- Parcels
- COD
- ETJ
- ETJ 2
- NAA 8/1/20
- NAA 8/1/40

Scale: 0 240 480 960 Feet

CITY OF DENTON
Development Services • GIS
Date: 6/3/2024

Z24-0008

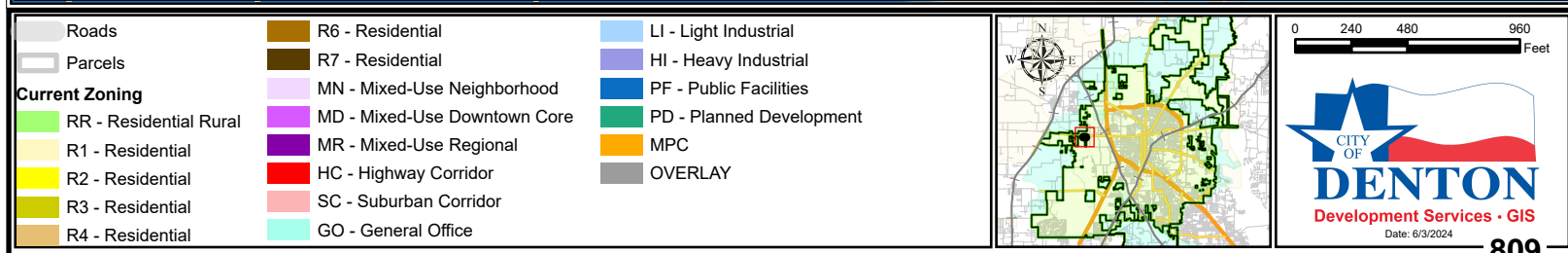
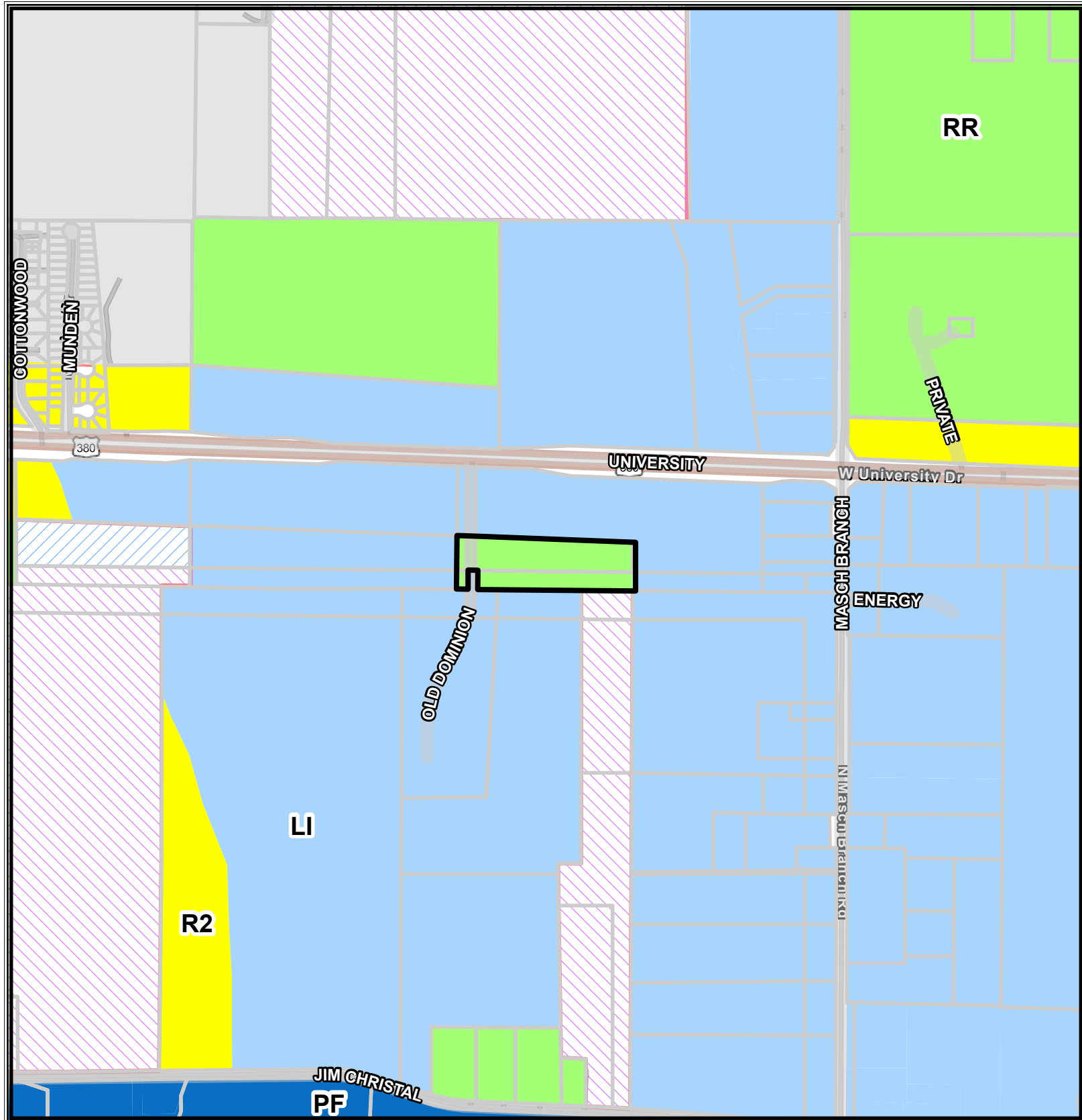
1-Future Land Use Map



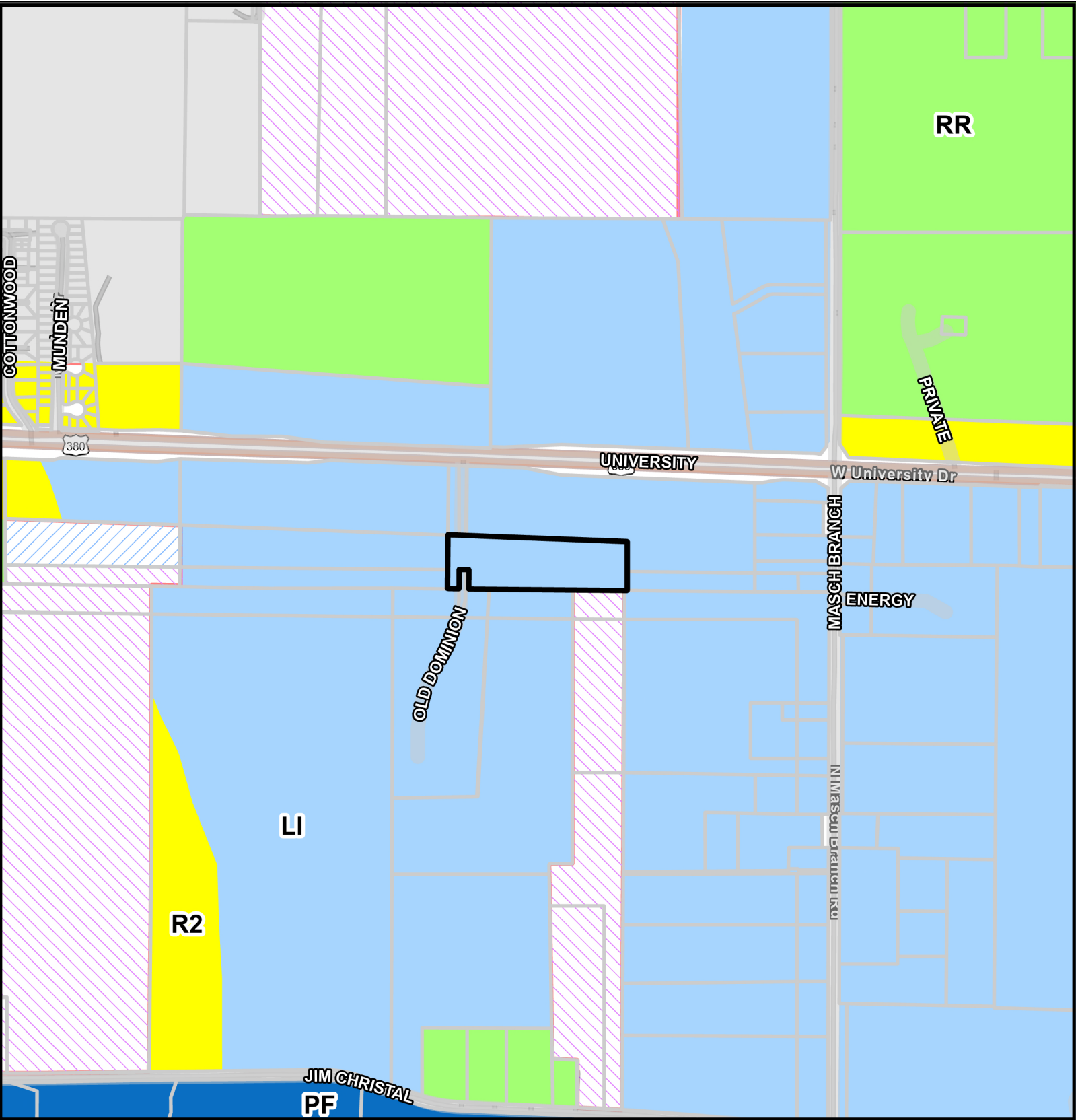
"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative property boundaries. Although every effort was made to ensure the accuracy of this data, no such guarantee is given or implied. Utilization of this map indicates the understanding that there is no guarantee to the accuracy of this data."

Z24-0008

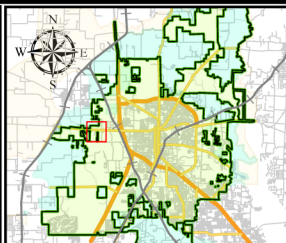
Current Zoning Map



Z24-0008 Proposed Zoning Map



Site Location	R6 - Residential	LI - Light Industrial
Parcels	R7 - Residential	HI - Heavy Industrial
Current Zoning	MN - Mixed-Use Neighborhood	PF - Public Facilities
RR - Residential Rural	MD - Mixed-Use Downtown Core	PD - Planned Development
R1 - Residential	MR - Mixed-Use Regional	MPC
R2 - Residential	HC - Highway Corridor	OVERLAY
R3 - Residential	SC - Suburban Corridor	
R4 - Residential	GO - General Office	



CITY OF DENTON
Development Services • GIS
Date: 6/13/2024

810

1 of 1

"This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative property boundaries. Although every effort was made to ensure the accuracy of this data, no such guarantee is given or implied. Utilization of this map indicates the understanding that there is no guarantee to the accuracy of this data."

COMPARISON OF PERMITTED USES

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Residential Uses																	
HOUSEHOLD LIVING																	
Single-Family Detached Dwelling	p+	p+	p+	p+	p+	p+	p+	p+									5.3.3A
Townhome					S+	p+	p+	p+	p+	p+							5.3.3B
Duplex					S+	p+	p+	p+	p+	p+							5.3.3C
Triplex						p+	p+	p+	p+	p+							5.3.3C
Fourplex						p+	p+	p+	p+	p+							5.3.3C
Multifamily Dwelling							S+	p+	p+	p+	S+	S+	S+				5.3.3D
Tiny Home Development		Subject to approval of a planned development (PD); see 5.3.3E															
Work/Live Dwelling	p+						p+	p+	p+	p+	p+	S+	S+				5.3.3F
Manufactured Home Development (HUD Code)						S+	S+										5.3.3G
GROUP LIVING																	
Chapter House							S	S								P	
Community Home	p+	p+	p+	p+	p+	p+	p+	p+	p+	p+							5.3.3I
Dormitory							S	S	P								
Elderly Housing						S+	S+	p+	p+	p+	S+	S+					5.3.3H
Group Home	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+							5.3.3J
Public, Institutional, Religious, and Civic Uses																	
COMMUNITY AND CULTURAL FACILITIES																	
Airport, City-Owned																P	
Cemetery, City-Owned																P	

Subchapter 5: Use Regulations

5.2 Table of Allowed Uses

5.2.3 Table of Allowed Uses

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Cemetery, Privately-Owned	S+		S+							S+	S+	S+	S+	S+		S+	5.3.4I
Club or Lodge	P	S	S	S	S	S	S+	P+	P	P+	P	P	P	P+	P+		5.3.4A
Community Service	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Day Care, Adult or Child	P	S	S	S	S	S	P	P	P	P	P	P	P	P+			5.3.4B
Funeral and Internment Facility									S	S	P	P	P	P			
Homeless Shelter	S+						S+	S+	S+	S+						P+	5.3.4C
Landfill, City-Owned																P	
Park, Playground, Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Religious Assembly	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.3.4D
EDUCATIONAL FACILITIES																	
Business or Trade School								P+	P+	P+	P+	P	P	P	P		5.3.4E
College or University									P	P			P				
School, Private	P	S	S	S	S	S	S	P	P	P	P	P	P			P	
School, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
HEALTHCARE FACILITIES																	
Hospital Services										P+	P+	P	P				5.3.4F
Medical Clinic								S+	S+	P+	P+	P	P	P			5.3.4G
Medical Office							P+	P+	P+	P	P+	P	P	P			5.3.4H
Commercial Uses																	
AGRICULTURAL AND ANIMAL USES																	
General Agriculture	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.3.5A
Commercial Stable	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.3.5B
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Kennel	P+	S+	S+								P+	P+	S+	P+	P+		5.3.5C
Urban Farm	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Veterinary Clinic	P	S	S					P	P+	P	P	P	P	P			5.3.5D
RECREATION AND ENTERTAINMENT																	
Amenity Center	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Indoor Recreation Facility	P							P	P	P	P	P	P	P			
Outdoor Recreation Facility	P	P	P	P	P	P	P	S	S	S	P	P	P	P			
RV Park	S+		S+	S+	S+	S+	S+							S+	P+		5.3.5E
FOOD AND BEVERAGE SERVICES																	
Bar, Tavern, or Lounge								S+	P	P	P	P	P	P			5.3.5F
Mobile Food Court								S+	S+	S+	S+	S+	S+	S+	S+		5.3.5G
Private Club	P+							P+	P+	P+	P+			P+	P+		5.3.5H

Subchapter 5: Use Regulations

5.2 Table of Allowed Uses

5.2.3 Table of Allowed Uses

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Restaurant								P+	P	P	P	P	P	P			5.3.5I
Restaurant, with Drive-Through								S+	S+	P+	P+	P+	P+	P+			5.3.5J
OFFICE, BUSINESS, AND PROFESSIONAL SERVICES																	
Administrative, Professional, and Government Office				S+	S+	S+	P+	P+	P+	P	P	P	P	P	P	P	5.3.5K
Bank or Financial Institution							S+	P+	P+	P	P	P	P	P			5.3.5L
Musician Studio								P+	P+	P+	P+	P+	P+	P+	P+		5.3.5M
Credit Access Business								S+	P+	P	P	P	P	P			5.3.5N
Printing, Copying, and Publishing Establishment								S	P	P	P	P	P	P	P		
PERSONAL SERVICES																	
Laundry Facility, Industrial												S	S	P	P		
Laundry Facility, Self-Service							S+	P+	P+	P+	P	P	P	P	P		5.3.5O
Personal Service, General								P	P	P	P	P	P	P			
Tattoo and Body Piercing Parlor								P+	P+	P+	P+	P+					5.3.5P
RETAIL SALES																	
Building Materials and Supply Store											S	P		P	P		
General Retail Unless Otherwise Specified, Less than 5,000 Square Feet							S+	P	P	P	P	P	P	P	P	P	5.3.5Q
General Retail Unless Otherwise Specified, Between 5,000 Square Feet and 15,000 Square Feet								P	P	P	P	P	P	P	P		
General Retail Unless Otherwise Specified, More than 15,000 Square Feet								S	S	P	P	P	P	P+	P+		5.3.5R
Smoke Shop									P	P	P	P					
LODGING FACILITIES																	
Bed and Breakfast	P+				S+	S+	S+	P+	P+	P+	P+						5.3.5S
Boarding or Rooming House								S	P	P	P						
Hotel								P	P	P	P	P	P	P			
Motel										P	P	P	P	P			
Short-Term Rental	P+	P+	P+	P+	P+	P+	P+	P+									5.3.5T
VEHICLES AND EQUIPMENT																	
Auto Wash										P	P	P	P	P	P		
Automotive Fuel Sales								S+	S+	P+	P+	P+	P+	P+	P+		5.3.5U
Automotive Repair Shop, Major										P+	P+	P+	S+	P+	P+		5.3.5V

Subchapter 5: Use Regulations

5.2 Table of Allowed Uses

5.2.3 Table of Allowed Uses

Table 5.2-A: Table of Allowed Uses

P = permitted S = specific use permit required Blank cell = use prohibited + = use-specific standards apply

	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Automotive Repair Shop, Minor								S+		P+	P+	P+	P+	P+	P+		5.3.5W
Automotive Sales or Leasing												P					
Automotive Wrecking Service, Impound Lot, Junkyard, and Salvage Yard														S+	P+		5.3.5X
Equipment Sales and Rental												S+		S+	P+		5.3.5Y
Parking Lot as a Principal Use									P	P	P	P	P	P	P		
Travel Plaza												P		P	P		
ADULT ENTERTAINMENT ESTABLISHMENTS																	
Sexually Oriented Business															S+		5.3.5Z
Industrial Uses																	
MANUFACTURING AND PROCESSING																	
Craft Alcohol Production								S	P+	P+	P+	P	P	P	P		5.3.6A
Feedlot, Slaughterhouse, or Packaging Plant	S														S		
Food Processing, Less than 2,500 Square Feet								P+	P+	P+	P+	P+	P+	P+	P+		5.3.6B
Food Processing, More than 2,500 Square Feet								S+	S+	P+	P+	P+	P+	P+	P+		5.3.6C
Gas Well	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	Subchapter 6: Gas Wells
Manufacturing, Artisan								P+	P+	P	P	P	P	P	P		5.3.6D
Manufacturing, Low-Impact									S+	P+	P+	P+	P+	P	P		5.3.6E
Manufacturing, Medium-Impact													S	S	P		
Manufacturing, High-Impact															S		
Commercial Incinerator, Transfer Station															S		
Data Center, Modular														S+	S+	S+	5.3.6I
Data Center, Warehouse										S+	S+	S+	P+	P+	P+	P+	5.3.6J
STORAGE AND WAREHOUSING																	
Outdoor Storage (as a Primary Use)														S+	S+	S+	5.3.6F
Self-Service Storage								S+	S+	S+	P+	S+	P+	P+	P+		5.3.6F.1
Storage of Hazardous Materials															S		
Warehouse and Wholesale Facility										S+	S+	P	P	P	P		5.3.6G.4.a
Public and Semi-Public Utility Uses																	
Basic Utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

Subchapter 5: Use Regulations

5.2 Table of Allowed Uses

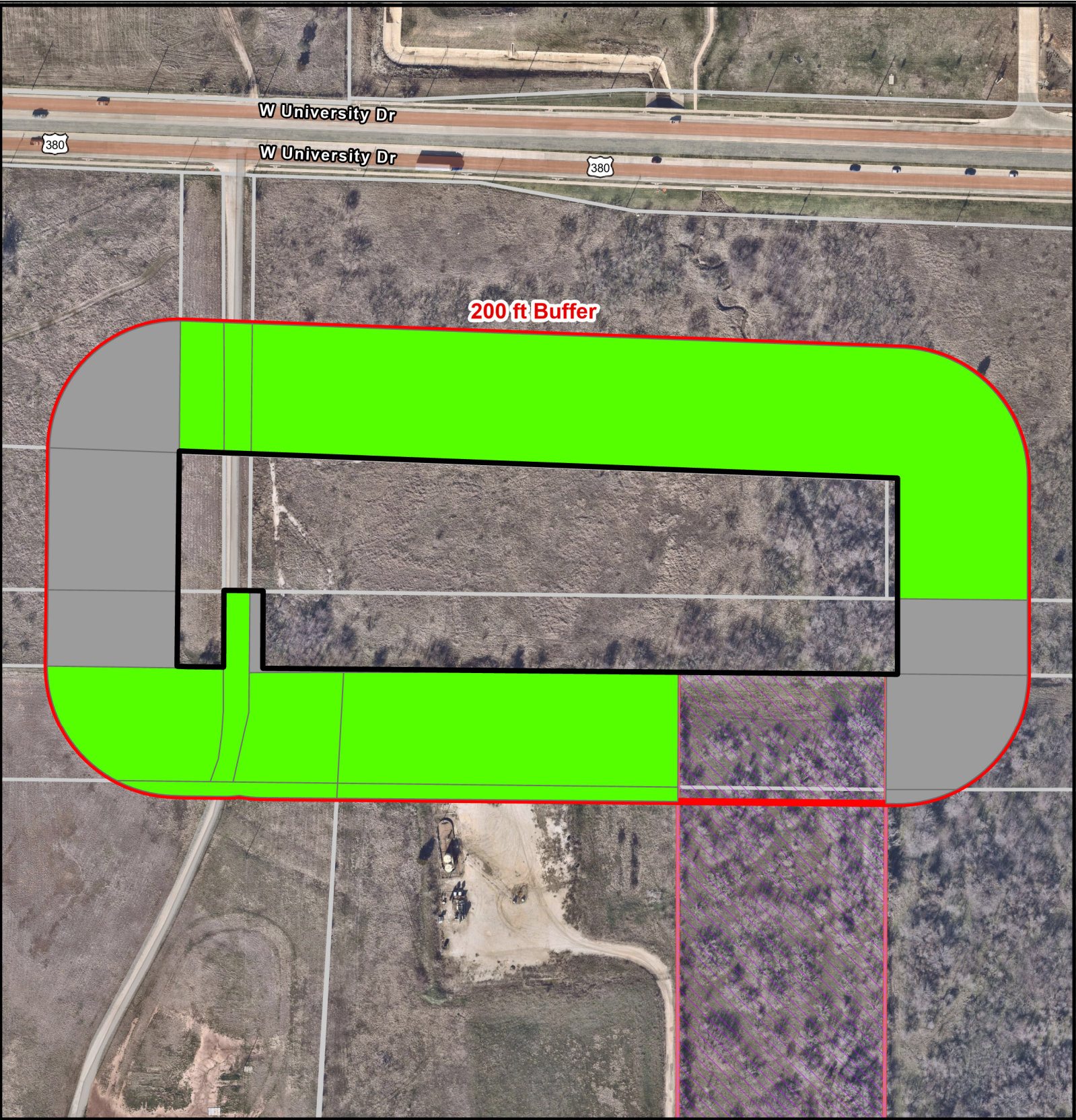
5.2.3 Table of Allowed Uses

Table 5.2-A: Table of Allowed Uses

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	Residential							Mixed-Use			Corridor		Other Nonresidential				Use-Specific Standards
	RR	R1	R2	R3	R4	R6	R7	MN	MD	MR	SC	HC	GO	LI	HI	PF	
Power Stations, Electric Substations, Interchanges, and Switch Stations	P+							P+	P+	P+	P+	P+	P+	P+	P+	P+	5.3.7A
Solar Collector as Principal Use	S+												S+	S+	S+	P+	5.3.7B
Wind Energy Conversion System (WECS)															S+	S+	5.3.7C
Wireless Telecommunications		See Section 5.6: <i>Wireless Telecommunications Facilities</i>															
Accessory Uses																	
Accessory Dwelling Unit	P+	P+	P+	P+	P+	P+	P+	P+									5.4.4A
Donation Box																	5.4.4B
Home Occupation	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+						5.4.4C
Outdoor Storage, Accessory												P+	P+	P+	P+	P+	05.4.4D
Sale of Produce and Plants Raised on Premises	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.4.4D.1
Solar Collector, (Ground- or Building-Mounted)	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.4.4F
Wind Energy Conversion System (WECS), Small (Ground-Mounted)	P+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	P+	P+	P+	5.4.4G
Wind Energy Conversion System (WECS), Small (Building-Mounted)	P+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	S+	P+	P+	P+	0
Temporary Uses																	
Temporary Storage Containers and Other Portable Storage Units	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.6A
Concrete or Asphalt Batching Plant, Temporary	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.6B
Farmer's Market or Open-Air Market								P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.4
Field or Construction Office	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.6C
Seasonal Sales								P+	P+	P+	P+	P+	P+	P+	P+		5.5.4
Special Event								P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.4
Portable Wireless Telecommunications Facility	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	P+	5.5.4

Z24-0008
Notification Response Map



Response

- No Response
- In Favor
- In Opposition

BUFFER200FT

Z24-0008



Development Services
401 N. Elm St., Denton, TX 76201 • (940) 349-8600

Response Form

Project Number Z24-0008
Billingsley D&D Inc

In order for your opinion to be counted, please complete and mail this form to:

City of Denton Development Services
Attn: Erin Stanley, Project Manager
401 N. Elm St.
Denton, TX 76201

You may also email to Erin.Stanley@cityofdenton.com or call (940) 349-8351. Please note any responses are subject to public information requests including the information provided below.

Project Number Z24-0008
Meeting Date (No Data) 6-26-24. Public Hearing 6:30pm

Please circle one:

☒ In favor of request

☐ Opposed to request

Comments:

Signature: H. Billingsley

Printed Name: Henry Billingsley

Street Address: 1722 South St Ste. 720

City, State and Zip Code: Dallas, TX 75201

Phone Number: 214. 270-0930

Email Address: hbillingsley@hbillingsleyco.com

Physical Address of Property within 200 Feet: W. US 380, Denton TX 76207

Denton Appraisal Acct# 36564 Acct# 161791 Acct# 162927 Acct# 160186

From: Henry Billingsley <HBillingsley@Billingsleyco.com>
Sent: Thursday, June 13, 2024 5:16 PM
To: Stanley, Erin
Cc: Bill Walker; Rhonda Hurst; Liz Blackwell; Vangie Lewis
Subject: RE: Project Number - Z24-0008

Hello Erin,
See below our responses in **red**.

Thank you,

Henry Billingsley
Partner

Billingsley Company | 1722 Routh Street Suite 770 | Dallas, TX 75201
214-270-0990 | HBillingsley@Billingsleyco.com | www.billingsleyco.com

From: Stanley, Erin <Erin.Stanley@cityofdenton.com>
Sent: Thursday, June 13, 2024 4:48 PM
To: Henry Billingsley <HBillingsley@Billingsleyco.com>
Cc: Vangie Lewis <vlewis@billingsleyco.com>; Bill Walker <BWalker@Billingsleyco.com>; Rhonda Hurst <rhurst@eikoncg.com>
Subject: RE: Project Number - Z24-0008

You don't often get email from erin.stanley@cityofdenton.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Henry,

Thank you for the response form. I do have a couple questions for you.

1. Several of these parcels have multiple owners. Can you confirm which of the following entities you represent? **We represent the all the owners listed below.**

Thimphu Development Ltd
Crow-Billingsley Denton GHB, Ltd
Crow-Billingsley Denton LPB, Ltd

2. Additionally, DCAD lists at least one of the Billingsley groups as a partial or full owner for the following parcels as well. Do you intend to represent the parcels listed below in favor of the rezoning as well? **Yes, the below accounts are in favor of the rezoning as well.**

676967
676984
36598

Note that property Account # 60186 is not in the area of this request. – **This account is ours as well and is in favor of the rezoning.**

Thank you,

Erin Stanley | Assistant Planner
Department of Development Services
Desk: (940) 349-8351 | Main: (940) 349-8600
401 N. Elm St., Denton, TX 76201
www.cityofdenton.com/landdevelopment



Upcoming days out of office: June 19-25

From: Henry Billingsley <HBillingsley@Billingsleyco.com>
Sent: Thursday, June 13, 2024 4:14 PM
To: Stanley, Erin <Erin.Stanley@cityofdenton.com>
Cc: Vangie Lewis <vlewis@billingsleyco.com>
Subject: Project Number - Z24-0008

This message has originated from an **External Source**. Please be cautious regarding links and attachments.

Hello Erin,
Attached you will find a response form for the upcoming Public Hearing Z24-0008.

Thank you,

Henry Billingsley

Partner

Billingsley Company | 1722 Routh Street Suite 770 | Dallas, TX 75201
214-270-0990 | HBillingsley@Billingsleyco.com | www.billingsleyco.com

BILLINGSLEY
COMPANY

The information contained in this transmission may be privileged and confidential and is intended only for the use of the person(s) named above. If you are not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, any review, dissemination, distribution, or duplication of this communication is strictly prohibited.

From: SMTP <smtp@billingsleyco.com>
Sent: Thursday, June 13, 2024 4:09 PM
To: Vangie Lewis <vlewis@billingsleyco.com>
Subject: Attached Scan via Kitchen Color

PUBLIC HEARING NOTIFICATION SIGN AFFIDAVIT OF SIGN POSTING

Project No. Z24-0008

Date of Planning and Zoning Commission Meeting: June 26, 2024

I hereby certify that I have posted or caused to be posted Public Hearing Notification sign(s) on the property subject to Project Name/Number Z24-0008 - 7012 JIM CHRISTAL RD, located at 7012 JIM CHRISTAL RD, DENTON TEXAS

Said sign(s) have been obtained through a sign contractor of choice and meet the specifications as stated in the City of Denton Public Hearing Sign Criteria Sheet.

Posting of said signs was accomplished on JUNE 7th, 2024. Said signs have been posted in a manner which provides an unobstructed view and which allows clear reading from the public right(s) of way along University Drive (State Highway 380). Said signs will be maintained on the property throughout the entire public hearing process and will be removed within three (3) calendar days subsequent to the final decision by the approving body.

I further certify that this affidavit was filed with the Planning Department of the City of Denton within the time provisions specified in the City of Denton Public Hearing Sign Criteria Sheet.

Executed this the 13th day of JUNE, 2024.

Crow-Billingsley Denton GHB, Ltd.

Bill Walker

Signature of Applicant or Authorized Representative for Project No. Z24-008 - 7012 Jim Christal Rd,

Bill WALKER SVP

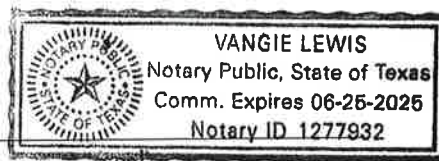
Printed Name of Applicant or Authorized Representative for Project No. Z24-008 - 712 Jim Christal Rd.

STATE OF TEXAS COUNTY OF DALLAS BEFORE ME, a Notary Public, on this 13 day of June, 2024

personally appeared Bill Walker (printed owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the owner, for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 13 day of June, 2024.

Vangie Lewis
Notary Signature



STAFF USE ONLY:
PLEASE NOTE: Failure to post the notification sign(s) on the property by the close of business (5 pm) on the tenth (10th) day prior to the Wednesday Planning and Zoning Commission public hearing shall result in the postponement of consideration by the Commission. Date/Time submitted: Received 6/13/24 Verified by: ES



Notice of Public Hearing

Project Number: Z24-0008

Project Name: 7012 Jim Christa

Request: Zoning

For more information:

www.cityofdenton.com/public-meetings

CALL: (940) 394-8541



Notice of Public Hearing
Project Number: Z24-0008
Project Name: 7012 Jim Christal
Request: Zoning
For more information:
www.cityofdenton.com/public-meetings
CALL: (940) 394-8541

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS, REGARDING A REQUEST TO REZONE APPROXIMATELY 7.8 ACRES OF LAND FROM RURAL RESIDENTIAL (RR) DISTRICT TO LIGHT INDUSTRIAL (LI) DISTRICT GENERALLY LOCATED APPROXIMATELY 400 FEET SOUTH OF US 380 AND APPROXIMATELY 1,300 FEET WEST OF N. MASCH BRANCH ROAD IN THE CITY OF DENTON, DENTON COUNTY, TEXAS; ADOPTING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP; PROVIDING FOR A PENALTY IN THE MAXIMUM AMOUNT OF \$2,000.00 FOR VIOLATIONS THEREOF; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (Z24-0008a)

WHEREAS, Rhonda Hurst of Eikon Consulting Group LLC, on behalf of the property owner, requested to rezone approximately 7.8 acres of land from Rural Residential (RR) District to Light Industrial (LI) District, legally described in Exhibit "A", and depicted in Exhibit "B" attached hereto and incorporated herein by reference (hereinafter, the "Subject Property"); and

WHEREAS, on June 26, 2024, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held due hearings and afforded full and fair hearings to all property owners interested in this regard, and have recommended approval [5-0] of the request; and

WHEREAS, on August 6, 2024, the City Council likewise conducted a public hearing as required by law, and finds that the request meets and complies with all substantive and procedural standards set forth in Section 2.7.2 of the Denton Development Code, and is consistent with the Denton 2040 Comprehensive Plan and the Denton Development Code; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Denton, in considering the application for establishing a zoning district change for the Property, have determined that the proposed use is in the best interest of the health, safety, morals, and general welfare of the City of Denton, and accordingly, the City Council of the City of Denton is of the opinion and finds that said zoning change is in the public interest and should be granted as set forth herein; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. The zoning district and use classification for the Property is hereby changed to Light Industrial (LI) District.

SECTION 3. The City's official zoning map is hereby amended to show the established zoning district and use classification.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. Any person, firm, partnership or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by fine in a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated shall constitute a separate and distinct offense.

SECTION 6. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record-Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY:  _____

**Exhibit A
Legal Description**

TRACT 1

BEING a 7.081 acre tract of land out of the G.H. Barb Survey, Abstract No. 208, situated in the City of Denton, Denton County, Texas, said tract being a portion of a called 29.11 acre tract of land conveyed as Tract 1 to Crow-Billingsley Denton GHB, Ltd. by deed of record in Document Number 2023-40765 of the Official Records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found at the southwest corner of said 29.11 acre tract, being an interior ell corner of a called 69.18 acre tract of land conveyed to Crow-Billingsley Denton LPB, Ltd. by deed of record in Document Number 2023-59178 of said Official Records, and to Thimphu Development, Ltd. by deed of record in Document Number 2023-23380 of said Official Records, and being the southwest corner hereof;

THENCE, N00°14'46"E, along the west line of said 29.11 acre tract and the common east line of said 69.18 acre tract, a distance of 329.38 feet to a point for the northwest corner hereof;

THENCE, over and across said 29.11 acre tract, the following two (2) courses and distances:

1. S87°50'35"E, a distance of 977.22 feet to a point for the northeast corner hereof;
2. SOUTH, a distance of 301.83 feet to a 1/2 inch iron rod found in the south line of said 29.11 acre tract, being the northwest corner of a called 28.756 acre tract of land conveyed to Jack Vanderhoff and wife, Louise Vanderhoff by deed of record in Volume 551, Page 4 of the Deed Records of Denton County, Texas, also being the northeast corner of a called 19.109 acre tract of land conveyed to Mark and Linda Cole by deed of record in Document Number 2001-2549 of said Official Records, and being the southeast corner hereof;

THENCE, N89°27'34"W, along the south line of said 29.11 acre tract, in part being the common north line of said 19.109 acre tract, and in part being the common north line of said 69.18 acre tract, a distance of 977.99 feet to the **POINT OF BEGINNING**, and containing an area of 7.081 acres (308,434 square feet) of land.

Bearings are based on GPS observations utilizing the AllTerra RTK Network, North American Datum of 1983 (Adjustment Realization 2011).

This document was prepared under 22 Texas Administrative Code §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TRACT 2

BEING a 0.414 acre tract of land out of the G.H. Barb Survey, Abstract No. 208, situated in the City of Denton, Denton County, Texas, said tract being a portion of a called 0.93 acre tract of land conveyed as Tract 2 to Crow-Billingsley Denton GHB, Ltd. by deed of record in Document Number 2023-40765 of the Official Records of Denton County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found in the north line of a called 69.18 acre tract of land conveyed to Crow-Billingsley Denton LPB, Ltd. by deed of record in Document Number 2023-59178 of said Official Records, and to Thimphu Development, Ltd. by deed of record in Document Number 2023-23380 of said Official Records, being the southeast corner of a called 26.85 acre tract of land conveyed to Series V by deed of record in Document Number 2021-102870 of said Official Records, also being the southwest corner of said 0.93 acre tract and hereof;

THENCE, N00°36'13"E, along the east line of said 26.85 acre tract and the common west line of said 0.93 acre tract, a distance of 331.10 feet to a point for the northwest corner hereof;

THENCE, S87°50'35"E, over and across said 0.93 acre tract, a distance of 53.68 feet to a point in the east line of said 0.93 acre tract and the common west line of said 69.18 acre tract, for the northeast corner hereof;

THENCE, S00°15'54"W, along the east line of said 0.93 acre tract and the common west line of said 69.18 acre tract, a distance of 329.75 feet to an "X" cut found on a wall, being an interior ell corner of said 69.18 acre tract, also being the southeast corner of said 0.93 acre tract and hereof;

THENCE, N89°17'27"W, along the south line of said 0.93 acre tract and the common north line of said 69.18 acre tract, a distance of 55.61 feet to the **POINT OF BEGINNING**, and containing an area of 0.414 acres (18,052 square feet) of land.

Bearings are based on GPS observations utilizing the AllTerra RTK Network, North American Datum of 1983 (Adjustment Realization 2011).

This document was prepared under 22 Texas Administrative Code §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TRACT 3

BEING a 0.292 acre tract of land out of the G.H. Barb Survey, Abstract No. 208, situated in the City of Denton, Denton County, Texas, said tract being a portion of a called 69.18 acre tract of land conveyed to Crow-Billingsley Denton LPB, Ltd. by deed of record in Document Number 2023-59178 of the Official Records of Denton County, Texas, and to Thimphu Development, Ltd. by deed of record in Document Number 2023-23380 of said Official Records, and being more particularly described by metes and bounds as follows:

COMMENCING at an "X" cut found on a wall at the southeast corner of a called 0.93 acre tract of land conveyed as Tract 2 to Crow-Billingsley Denton GHB, Ltd. by deed of record in Document Number 2023-40765 of said Official Records, being an interior ell corner of said 69.18 acre tract;

THENCE, N00°15'54"E, along the east line of said 0.93 acre tract and the common west line of said 69.18 acre tract, 118.04 feet to the **POINT OF BEGINNING** and southwest corner hereof;

THENCE, N00°15'54"E, continuing along the east line of said 0.93 acre tract and the common west line of said 69.18 acre tract, a distance of 211.71 feet to a point for the northwest corner hereof;

THENCE, S87°50'35"E, over and across said 69.18 acre tract, a distance of 60.27 feet to a point in the east line of said 69.18 acre tract and the common west line of a called 29.11 acre tract of land conveyed as Tract 1 to Crow-Billingsley Denton GHB, Ltd. by deed of record in Document Number 2023-40765 of said Official Records, for the northeast corner hereof;

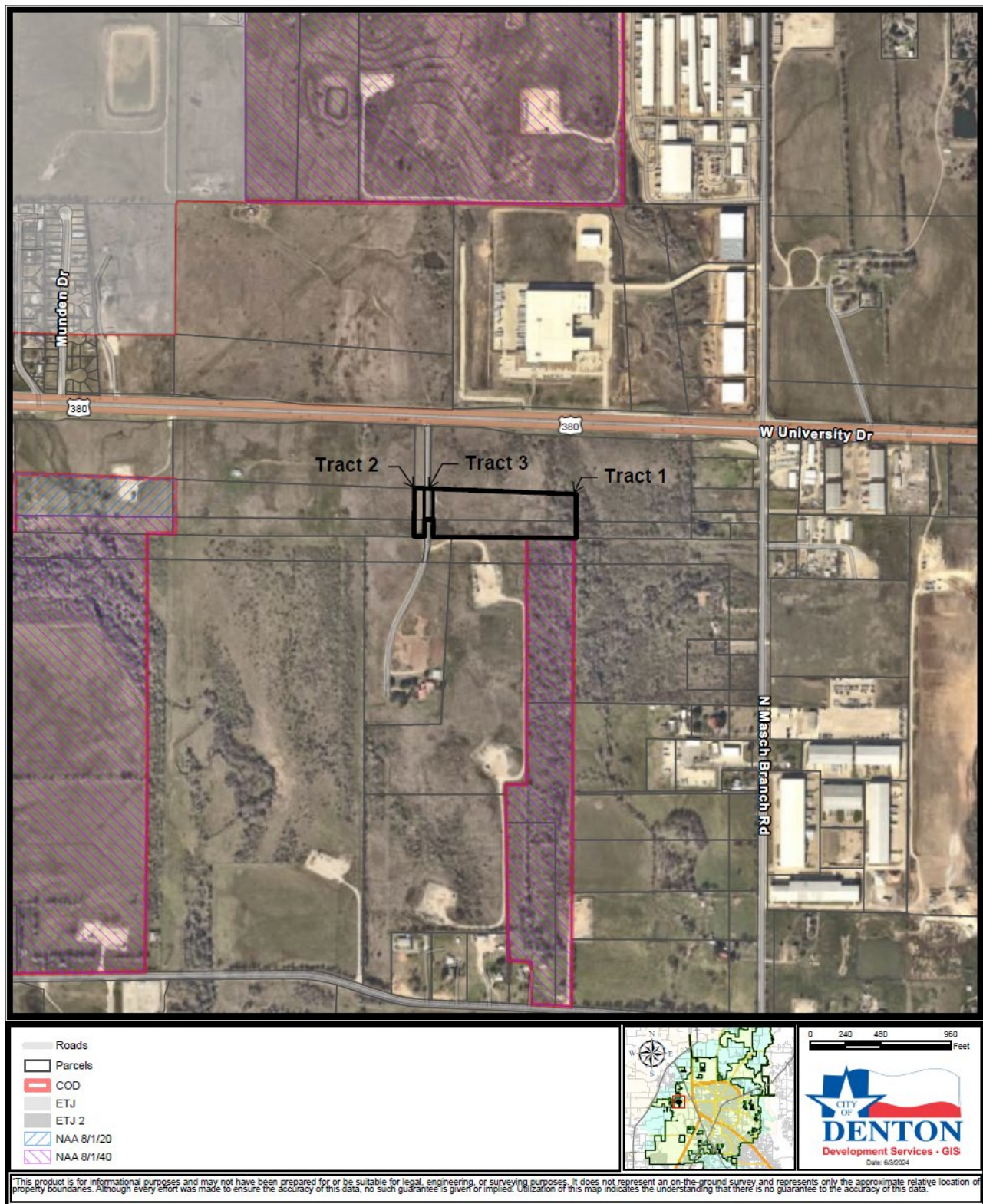
THENCE, S00°14'46"W, along the west line of said 29.11 acre tract and the common east line of said 69.18 acre tract, a distance of 210.08 feet to a point for the southeast corner hereof, from which a 1/2 inch iron rod found at the southwest corner of said 29.11 acre tract, being an interior ell corner of said 69.18 acre tract, bears S00°14'46"W, a distance of 119.31 feet;

THENCE, N89°24'00"W, over and across said 69.18 acre tract, a distance of 60.31 feet to the **POINT OF BEGINNING**, and containing an area of 0.292 acres (12,712 square feet) of land.

Bearings are based on GPS observations utilizing the AllTerra RTK Network, North American Datum of 1983 (Adjustment Realization 2011).

This document was prepared under 22 Texas Administrative Code §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Exhibit B Subject Property Map





Z24-0008a

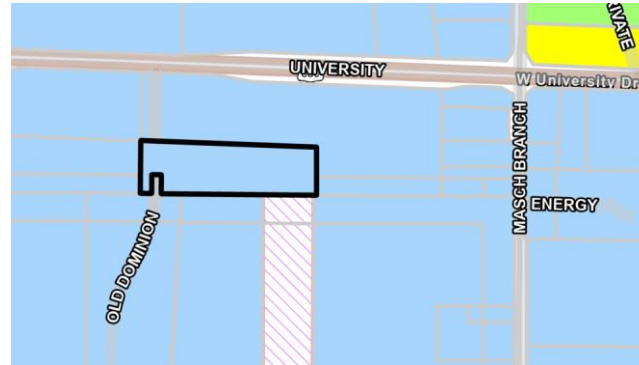
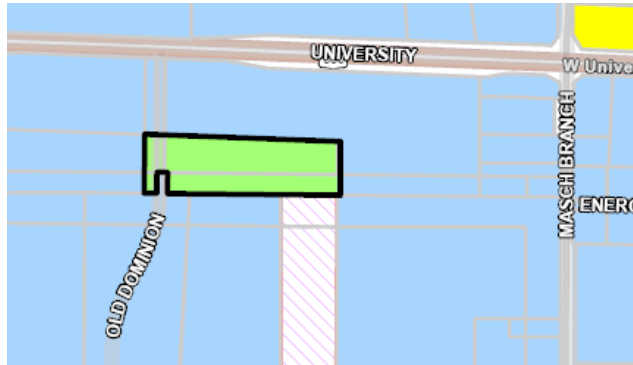
Crow-Billingsley Denton— RR to LI

Erin Stanley
Assistant Planner
August 6, 2024



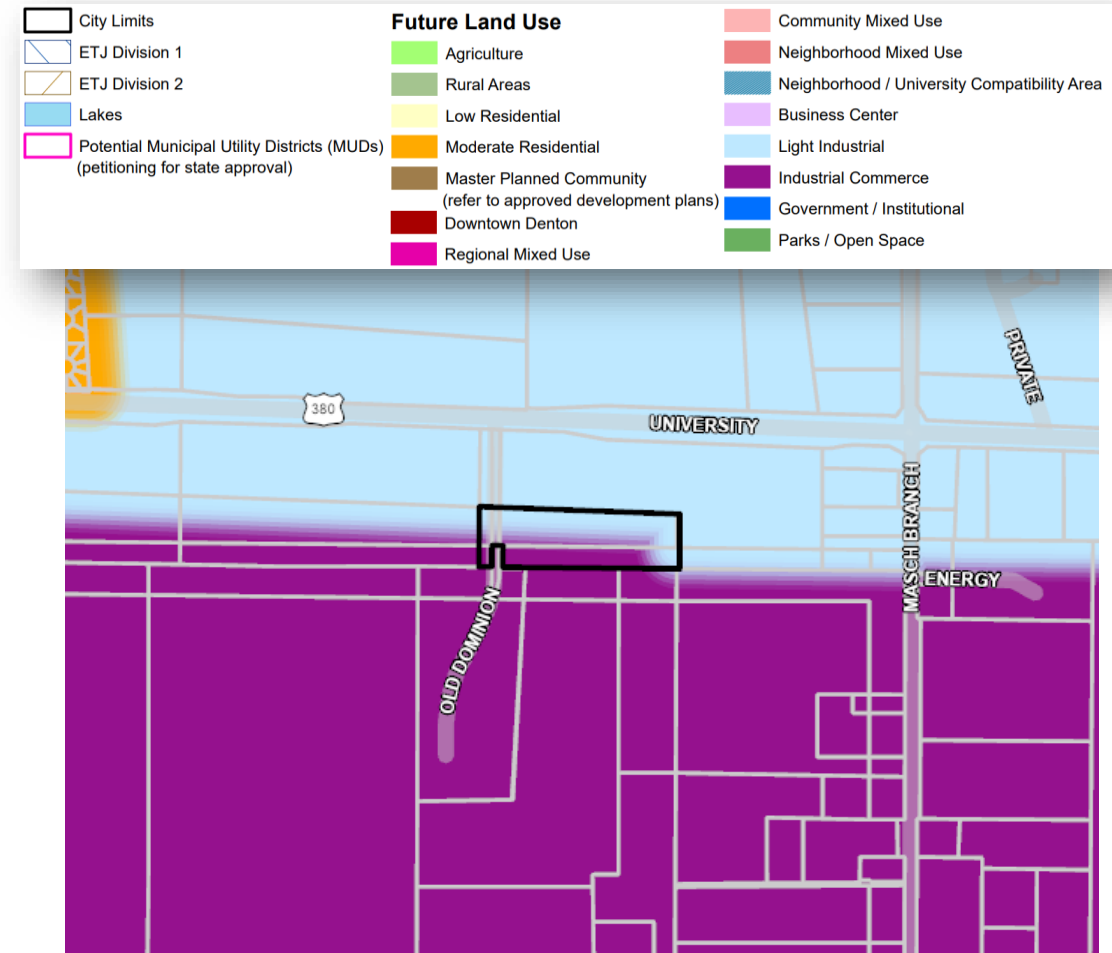
Request

- Rural Residential (RR) Zoning District to a Light Industrial (LI) Zoning District
- Approximately 7.8 acres
- Undeveloped; currently surrounded primarily by undeveloped property and gas wells



Consistency with Future Land Use Map

- The Light Industrial designation is intended for tracts of land that are appropriate for **light industrial activity**. Primary uses include light **manufacturing, assembling, and warehousing** and distribution, and include **associated supporting uses**, such as **offices, retail, and restaurants**. Light Industrial areas should have adequate access to infrastructure, including the transportation network.
- Industrial Commerce applies to areas where the predominant uses include **both light and heavy industrial uses**, such as moderate to heavy manufacturing, assembly, fabrication, and wholesaling.
- Intent of LI zoning is primarily to provide locations for a **variety of light industrial and employment uses** such as light manufacturing, assembly, fabrication, warehousing and distributing, indoor and outdoor storage, and a **wide range of supporting commercial uses and activities**.



Criteria for Approval – Development Code

Summary:

- ✓ Proposal is consistent with the goals and policies and the Future Land Use Map of the Denton 2040 Comprehensive Plan.
- ✓ Proposal is consistent with LI Zoning District purpose statement.
- ✓ Zoning is not expected to generate significant adverse environmental, infrastructure, or fiscal impacts.

General Approval Criteria for All Applications (Sec. 2.4.5E)

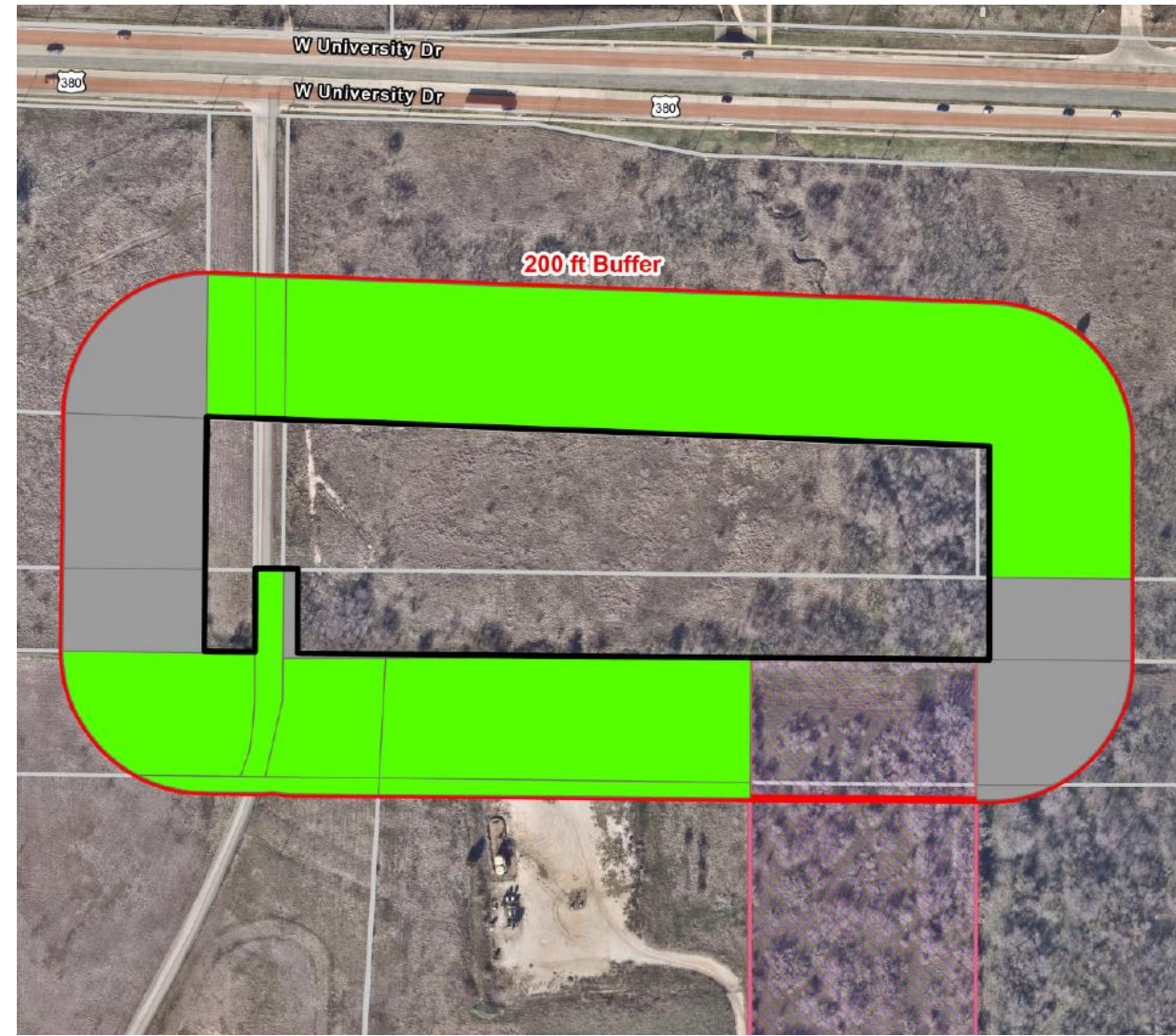
1. General Criteria
2. Prior Approvals
3. Consistent with the Comprehensive Plan and Other Applicable Plans
4. Compliance with this DDC
5. Compliance with other regulations
6. Consistent with Interlocal and Development Agreements
7. Minimizes Adverse Environmental Impacts
8. Minimizes Adverse Impacts on surrounding Property
9. Minimizes Adverse Fiscal Impacts
10. Compliance with Utility, Service, and Improvement Standards
11. Provides Adequate Road Systems
12. Provides Adequate Public Services and Facilities
13. Rational Phasing Plan

Zoning Criteria for Approval (Sec 2.7.2.D)

- a. The proposed rezoning is consistent with the Future Land Use Map designation.
- b. The proposed rezoning is consistent with relevant Small Area Plan(s).
- c. The proposed rezoning is consistent with the purpose statement of the proposed zoning district, as provided in Subchapter 3, Zoning Districts.
- d. There have been or will be significant changes in the area to warrant a zoning change.
- e. The intensity of development in the new zoning district is not expected to create significantly adverse impacts to surrounding properties or the neighborhood.
- f. Public facilities and services are available to adequately serve the subject property while maintaining adequate level of service to existing development.
- g. There was an error in establishing the current zoning district.

Notification

- **Newspaper posted:** June 9 and July 20, 2024
- **City website posted:** June 6 and July 18, 2024
- **Property posted:** June 7, 2024
- **Mailed notices**
 - 200 ft. Public Hearing Notices mailed: 6
 - 500 ft. Courtesy Notices mailed: 3
- **Responses:**
 - In Opposition: 0
 - In Favor: 2 (76%)
 - Neutral: 0
- The applicant made attempts to contact adjacent property owners with no success.



Recommendation

Staff recommends **approval** of the zoning change request to a Light Industrial (LI) Zoning District as it complies with the criteria in Section 2.4.5E of the Denton Development Code for approval of all applications, and Section 2.7.2D of the DDC for approval of a Zoning Map Amendment (Rezoning).

The Planning and Zoning Commission recommended approval [5-0].

QUESTIONS?

Erin Stanley
Assistant Planner
Development Services



City of Denton

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

Legislation Text

File #: DCA24-0008a, **Version:** 1

AGENDA CAPTION

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code Subchapter 2. Administration and Procedures, Subsection 2.3.3B Planning and Zoning Commission Operational Procedures; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villarreal and seconded by Commissioner Pruett. (DCA24-0008, P & Z Reconsideration Process, Keisha Cyriaano)



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: Department of Development Services

ACM: Cassey Ogden

DATE: August 6, 2024

SUBJECT

Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas amending the Denton Development Code Subchapter 2. Administration and Procedures, Subsection 2.3.3B Planning and Zoning Commission Operational Procedures; providing a severability clause and an effective date. The Planning and Zoning Commission voted [5-0] to recommend approval of the request. Motion for approval was made by Commissioner Villarreal and seconded by Commissioner Pruet. (DCA24-0008, P & Z Reconsideration Process, Keisha Cyriaano) <https://dentontx.new.swagit.com/videos/310499?ts=6719>

BACKGROUND

The purpose of this code amendment is to establish a process for the Planning and Zoning Commission to reconsider an agenda item.

Denton Development Code (DDC) Subchapter 2: Administration and Procedures Subsection 2.3.3B *Planning and Zoning Commission Operational Procedures* does not have a process in place for the Planning and Zoning Commission to reconsider an item. Therefore, the Planning and Zoning Commission follows the City Council reconsideration process as provided for in the City's Code of Ordinances, which does not always work well with the timelines between Planning and Zoning Commission and City Council meetings.

This issue was exemplified as a result of a reconsideration request made by a Planning and Zoning Commissioner for an agenda item that had been published on the City Council's agenda prior to the Commission having a subsequent meeting at which time the reconsideration could have been discussed (August 2023). Coupled with lack of a codified process, it was unclear as to if reconsideration of the agenda item was still an available process for the Commission and which body (i.e. the Commission or City Council) had jurisdiction for considering the item. Ultimately in that situation it was determined that since the item had been noticed and placed on a published City Council agenda, the City Council had jurisdiction and the Commission was unable to reconsider their vote on the item. Therefore, it is appropriate to consider amending the DDC to establish a comprehensive reconsideration process specific to the Planning and Zoning Commission.

In the situation that occurred in August 2023, currently, if a Planning and Zoning Commissioner would like to reconsider an item following action by the Commission and subsequent posting on City Council's agenda, the request must be presented during the agenda item's public hearing with City Council. At that time, City Council would have to make a vote on whether or not to have the item be reconsidered by the Planning and Zoning Commission or to continue with consideration of the agenda item by City Council.

By amending the current code, the Planning and Zoning Commission would have a comprehensive process in place to address reconsideration of agenda items before items are presented to City Council. The proposed code amendment being presented takes into account feedback received from the Planning and Zoning Commission at their work sessions on June 12, 2024 and June 26, 2024 to include a separate process for items that have been

noticed for public hearing for City Council and a process for those items that have not yet been noticed for City Council that would follow the standard agenda item processing.

PLANNING AND ZONING COMMISSION

On July 17, 2024, the Planning and Zoning Commission held a public hearing and voted [5-0] to recommend approval of the proposed DDC amendment. No questions were asked by the Commission. No members of the public spoke.

OPTIONS

- 1. Approval
- 2. Denial
- 3. Postpone Item

RECOMMENDATION

Staff recommends **approval** of the ordinance amending the Denton Development Code Subchapter 2: Administration and Procedures Subsection 2.3.3B Planning and Zoning Commission Operational Procedures related to establishing an agenda item reconsideration process within the Planning and Zoning Commission Operational Procedures.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Date	Council, Board, Commission	Request	Action
June 12, 2024	Planning and Zoning Commission	Work Session	Review
June 26, 2024	Planning and Zoning Commission	Work Session	Review
July 17, 2024	Planning and Zoning Commission	Public Hearing	Recommended Approval

PUBLIC OUTREACH:

The following public outreach efforts were done to meet legal notice requirements and to seek feedback from the community.

- A notice was published on the City’s website on Friday, July 19, 2024.
- A notice was published in the Denton Record Chronicle on Sunday, July 21, 2024.

There we no responses received.

EXHIBITS

- Exhibit 1 - Agenda Information Sheet
- Exhibit 2 - Staff Analysis
- Exhibit 3 - Draft Ordinance
- Exhibit 4 - Presentation

Respectfully submitted:
Tina Firgens, AICP
Deputy Director of Development Services/
Planning Director

Prepared by:
Keisha Cyriaano
Assistant Planning Director

Staff Analysis

DCA24-0008a/ Planning and Zoning Commission Reconsideration Process

REQUEST:

This is a city-initiated Code amendment to the Denton Development Code (DDC); Subchapter 2: Administration and Procedures 2.3.3B *Planning and Zoning Commission Operational Procedures*.

CONSIDERATIONS:

Section 2.7.4D of the DDC states that an application for a DDC text amendment may be approved upon consideration of the following criteria as to whether and to what extent the proposed amendment:

1. *Is consistent with the Comprehensive Plan, other adopted plans, and other city policies;*

The proposed Code amendment will establish procedures for the Planning and Zoning Commission to reconsider agenda items rather than having to default to the City Council's rules of procedure that do not necessarily align with the Commission's role as a recommending body and the City's adopted meeting calendars. The amendment is consistent with the Comprehensive Plan, other plans and policies.

2. *Does not conflict with other provisions of this DDC or other provisions in the Municipal Code of Ordinances;*

The proposed Code amendment does not conflict with any provisions of the DDC or Municipal Code of Ordinances. The purpose of the Code amendment is to establish a process for the Planning and Zoning Commission to reconsider agenda items, thereby clarifying existing uncertainty caused by having to apply City Council rules of procedure to the Commission in the absence of having their own adopted processes.

3. *Is necessary to address a demonstrated community need;*

This proposed city-initiated Code amendment to the DDC is needed to establish a process for the Planning and Zoning Commission to reconsider agenda items.

As a result of a reconsideration request made by a Planning and Zoning Commissioner of an agenda item that had already been published on the City Council's agenda (August 2023), coupled with lack of a codified process, it was unclear at that time as to if reconsideration of an agenda item was still an available process for the Commission and which body (i.e. the Commission or City Council) had jurisdiction for considering the item. Therefore, it is appropriate to consider amending the DDC to establish a comprehensive reconsideration process specific to the Planning and Zoning Commission.

4. *Is necessary to respond to a substantial change in conditions and/or policy; and*

The Code amendment is not in response to a substantial change in conditions and/or policy, but does serve to clear up existing uncertainties that result from trying to apply City Council procedures to the Commission as a recommending body.

5. *Is consistent with the general purpose and intent of this DDC.*

The proposed Code amendment is consistent with the general purpose and intent of the DDC as discussed above.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, TEXAS AMENDING THE DENTON DEVELOPMENT CODE SUBCHAPTER 2. ADMINISTRATION AND PROCEDURES, SUBSECTION 2.3.3B PLANNING AND ZONING COMMISSION OPERATIONAL PROCEDURES; PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE. (DCA24-0008)

WHEREAS, pursuant to Ordinance No. DCA24-0008, the City Council of the City of Denton adopted the newly revised 2019 Denton Development Code, the (“DDC”); and

WHEREAS, the City desires to amend the DDC to establish a process for the Planning and Zoning Commission to reconsider agenda items; and

WHEREAS, the amendments include the following:

1. Subchapter 2. Administration and Procedures, Subsection 2.3.3B Planning and Zoning Commission Operational Procedures – Update to allow for reconsideration procedures associated with certain zoning and development applications.

WHEREAS, on July 17, 2024, the Planning and Zoning Commission, in compliance with the laws of the State of Texas, gave the requisite notices by publication, held due hearings and recommended approval [5-0] of the amendment to the Denton Development Code; and

WHEREAS, on August 6, 2024, the City Council likewise conducted a public hearing in accordance with local and state law and the City Council hereby finds that the Code amendments are consistent with the City’s comprehensive plan, and the federal, state, and local law are in the best interests of the City of Denton; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this ordinance are incorporated herein by reference and found to be true.

SECTION 2. DDC Subchapter 2. Administration and Procedures, Subsection 2.3.3B Planning and Zoning Commission Operational Procedures is amended to create Subsection 2.3.3B.5, “Reconsideration” as set forth in **“Exhibit A”** which is attached and fully incorporated herein by reference.

SECTION 3. Any person, firm, partnership, or corporation violating any provision of this ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine in a sum not exceeding \$2,000.00 for each offense. Each day that a provision of this ordinance is violated, shall constitute a separate and distinct offense.

SECTION 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by any court, such invalidity shall not affect the validity of the provisions or applications, and to this end the provisions of this ordinance are severable.

SECTION 5. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Denton Development Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 6. In compliance with Section 2.09(c) of the Denton Charter, this ordinance shall become effective fourteen (14) days from the date of its passage, and the City Secretary is hereby directed to cause the caption of this ordinance to be published twice in the Denton Record Chronicle, a daily newspaper published in the City of Denton, Texas, within ten (10) days of the date of its passage.

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY


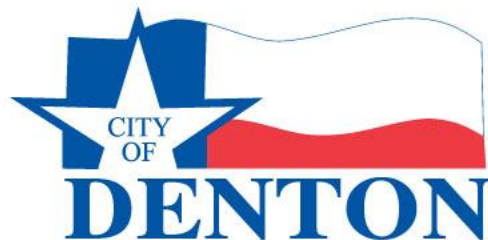
BY:  _____

Exhibit A
DDC 2.3.3B.5 Reconsideration

5. Reconsideration:
- a. A member desiring to make a motion to reconsider any subdivision variance or recommendation for Specific Use Permit, Comprehensive Plan Amendment, Zoning (Map or Text) Amendment, Planned Development, or Alternative Environmentally Sensitive Area (ESA) Plan, shall notify the Director or designee no later than 10:00 am Central time on the Thursday prior to the next succeeding official meeting of the Planning and Zoning Commission, except as provided in b. below.
 - b. A member desiring to make a motion to reconsider an agenda item that has already been publicly noticed for City Council consideration and scheduled to be presented at the following week City Council meeting, shall notify the Director or designee no later than 10:00 am Central time on the Friday immediately following the Planning and Zoning Commission meeting. If the reconsideration request is not received within the designated timeframe, the item will be presented to City Council as scheduled.
 - c. Motions to reconsider an agenda item can only be made by a member who voted with the prevailing side and can be seconded by any member.
 - d. If the motion to reconsider prevails, the item must follow all requirements outlined in DDC Section 2.4.6 – *Step 4: Scheduling and Notice of Public Meetings/Hearings*, including public notice if applicable, prior to the Planning and Zoning Commission reconsideration.
 - e. If the motion to reconsider fails, the original vote stands and, if applicable, all requirements outlined in DDC Section 2.4.6 – *Step 4: Scheduling and Notice of Public Meetings/Hearings* must be followed for the next available City Council date.

DCA24-0008a P and Z Reconsideration

Keisha Cyriaano
Assistant Planning Director
August 6, 2024



Request

- Request to amend DDC Subchapter 2: Administration and Procedures 2.3.3B Planning and Zoning Commission Operational Procedures.
- Request would:
 - Establish a comprehensive process for the Planning and Zoning Commission to reconsider agenda items before presented to City Council.

Background

- **Currently**, the Planning and Zoning Commission follows the **City Council reconsideration process** provided in the City's Code of Ordinances.
- Code of Ordinances Section 2-29(g)(11):
 - allows for an item to be placed on the next meeting agenda for the Commission to vote on whether they wish to reconsider, or
 - if an item has already been noticed and placed on a City Council agenda then the request must be presented during the item's Public Hearing with City Council.
- City Council would have to make a vote on whether or not to have the item be reconsidered by the Planning and Zoning Commission, or to continue with consideration of the agenda item by City Council.
- **Staff initiated this request** due to challenges with a prior reconsideration request made in August 2023.

Proposal

Amend the current code to establish a comprehensive reconsideration process for the Planning and Zoning Commission.

Recommended process:

- A member of the prevailing side must notify the Director of the reconsideration request by:
 - 10:00 am on the Thursday prior to the next succeeding official Planning and Zoning Commission meeting **for items not publicly noticed for City Council Consideration the following week.**
 - 10:00 am on the Friday immediately following the Planning and Zoning Commission meeting **for items that have been publicly noticed for City Council consideration the following week.**

SUN	MON	TUE	WED	THU	FRI	SAT
28	29	30	31	1	2	3
4	5	6 City Council	7	8	9	10
11	12	13	14 P and Z Original Vote	15	16	17
18	19	20 City Council	21	22 Submit request by 10 am	23	24
25	26	27	28 P and Z	29	30	31

*For items NOT publicly noticed for City Council consideration the following week

SUN	MON	TUE	WED	THU	FRI	SAT
28	29	30	31	1	2	3
4	5	6 City Council	7	8	9	10
11	12	13	14 P and Z Original Vote	15	16 Submit request by 10 am	17
18	19	20 City Council	21	22	23	24
25	26	27	28 P and Z	29	30	31

*For items already publicly noticed for City Council consideration the following week



Proposal

- If the motion to reconsider prevails, the item must follow all requirements outlined in the DDC:
 - Presented to P and Z as an **Item for Consideration first** and then Public Hearing at the following meeting depending on the vote to reconsider.
 - Item must follow public notice protocols if applicable.
- If the motion to reconsider fails, the original vote stands and, if applicable, all requirements outlined in DDC Section 2.4.6 – *Step 4: Scheduling and Notice of Public Meetings/Hearings* must be followed for the next available City Council date.

Public Outreach

Website Notice: Friday, July 19, 2024

Newspaper Ad: Sunday, July 21, 2024

No responses received.



08/06/2024

File ID: DCA42-0008a

6

851

Recommendation

The Planning and Zoning Commission recommended approval [5-0].

Staff recommends **approval** of the request as it meets the established criteria for approval for Code Text Amendments as outlined in Section 2.7.4D of the DDC.

Questions?



City of Denton

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

Legislation Text

File #: ID 24-1382, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, approving a power purchase agreement between the City and SPRE Denton TX, LLC., a Texas Limited Liability Company; ratifying the equity investor letter agreement; and providing for an Effective Date. The Public Utilities Board recommends approval (6-0).



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: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, approving a power purchase agreement between the City and SPRE Denton TX, LLC., a Texas Limited Liability Company; ratifying the equity investor letter agreement; and providing for an Effective Date. The Public Utilities Board recommends approval (6-0).

INFORMATION/BACKGROUND

In 2022, DME was being approached by many different Crypto Mining operations interested in coming to Denton. They all had the same preference to lease City owned land adjacent to a substation. In order to more fairly select a recipient, DME issued an RFP for available capacity and land located next to the RD Wells Substation. DME received several bids and started negotiations with the most favorable one for the City.

If given the approval to move forward, WAHA Inc, would be the Data Center provider selected. They will be installing a 20-megawatt modular data center on approximately 4 acres of RD Wells Substation property located in the Airport Industrial park.

Staff and WAHA have successfully negotiated Lease and PPA language and are now bringing them to the City Council for approval. WAHA created a new LLC, SPRE Denton TX, LLC for the purpose of this project. Next steps will be to complete development review process and begin construction with anticipated commercial operation date in early Fall.

RECOMMENDATION

Staff recommends adoption and approval of the Ordinance giving the City Manager the authority to execute the power purchase agreement.

PRIOR ACTION/REVIEW

On July 22, 2024, the Public Utilities Board received a presentation and recommended that the City Council adopt the power purchase agreement.

EXHIBITS

Exhibit 1: Agenda Information Sheet
Exhibit 2: Ordinance and Redacted PPA
Exhibit 3: Presentation

Respectfully submitted:
Bill Shepherd
Executive Manager of Business Services

ORDINANCE NO. 24- 1382

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, APPROVING A POWER PURCHASE AGREEMENT BETWEEN THE CITY AND SPRE DENTON TX, LLC., A TEXAS LIMITED LIABILITY COMPANY; RATIFYING THE EQUITY INVESTOR LETTER AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City owns and operates an electric utility which provides electric energy and related services to all customers within Denton Municipal Electric's (DME) Public Utilities Commission of Texas (PUCT) certificated jurisdiction; and

WHEREAS, the City and SPRE Denton TX, LLC. have agreed to terms and conditions for the City's provision of electric energy and related services to a to-be-constructed data center on property to be leased from the City, and those are set forth in a power purchase agreement ("PPA") which is attached as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the City Council finds the PPA should be sealed and exempted from public disclosure, as permitted by the provisions of §552.133 of the Texas Government Code, as a document that is reasonably related to a competitive electric matter, the disclosure of which would provide an advantage to the competitors or prospective competitors of the City's municipal electric operation ("Competitive Information"); and

WHEREAS, the City Council finds that it is in the public interest that it exercises its right under the Texas Government Code to lawfully safeguard and keep the PPA sealed, as it contains competitive electric commercial and financial information; and

WHEREAS, the City Council finds that it is in the public interest that a copy of the PPA, redacted of Competitive Information, be made available to the public; and

WHEREAS, the City Council further finds that the PPA is in the best interest of the customers; NOW, THEREFOR,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations contained in the preamble of this ordinance are incorporated herein by reference as findings of the City Council.

SECTION 2. The City Council approves and authorizes the City Manager, or designee, and City Secretary, or designee, to execute, attest and deliver, respectively, the power purchase agreement, attached as Exhibit "A", and ratifies the Equity Investor Letter Agreement, attached as Exhibit "B", with SPRE Denton, TX LLC.

SECTION 3. A copy of the PPA, redacted of Competitive Information, attached Exhibit "A", shall be available to the public for inspection and copying. Absent lawful order, the original PPA shall not be available for public inspection or copying and will be sealed as provided for in the preceding section.

SECTION 4. The City Council approves and authorizes the City Manager, or designee, to take such additional actions as the City Manager, or designee, determines to be necessary and advisable to continue to effectuate the purpose, terms and conditions of the PPA.

SECTION 5. Immediately following the execution, attestation, and delivery of the PPA, the City Secretary is directed to seal and maintain the PPA in her custody and control, as documents excepted from public disclosure under the provisions of Texas Government Code, Section 552.133 unless otherwise lawfully ordered to disclose said documents.

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 _____. 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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Benjamin N. Samples, II

EXHIBIT A
(Redacted PPA)

POWER PURCHASE AGREEMENT

By and Between

CITY OF DENTON, TEXAS, DBA DENTON

MUNICIPAL ELECTRIC,

(as SELLER)

AND

SPRE DENTON TX, LLC

(as BUYER)

Dated as of

XXXXXX

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

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Exhibit H	Renewable Energy Credits

POWER PURCHASE AGREEMENT

This POWER PURCHASE AGREEMENT (this “**Agreement**”) is made this ____ day of _____ 2024 (the “**Effective Date**”), by and between the City of Denton, Texas, d/b/a Denton Municipal Electric, a Texas Municipal Corporation and Home-Rule City, acting by and through its City Council with its principal place of business at 215 E. McKinney Street, Denton, Texas 76201 (“**Seller**”) and SPRE Denton TX, LLC, 2146 Roswell Road, #108-851, Marietta, Georgia 30062 (“**Buyer**”). Buyer and Seller are each individually referred to herein as a “**Party**” and collectively as the “**Parties**”.

W I T N E S S E T H:

WHEREAS, Buyer desires to develop, design, construct, own and operate a high efficiency computing center (the “**Project**”) on property leased from Seller;

WHEREAS, the Parties have entered into that certain Lease Agreement contemporaneously with this Agreement pursuant to which Seller is leasing property to Buyer (the “**Lease Agreement**”);¹

WHEREAS, Seller is the single certified electric utility provider for the leased property, as defined in the Lease Agreement, with electric service jurisdictional monopoly rights;

WHEREAS, the Parties desire to enter into this Agreement, pursuant to which, among other things, (i) Seller shall provide all required Energy (as defined in Section 1.1 below) to the Project, (ii) Buyer shall pay to Seller amounts for the Retail Products (as defined in Section 3.1 below), all in accordance with and subject to the terms and conditions set forth in this Agreement;

WHEREAS, Seller has adopted the Denton Renewable Resource Plan (“**DRRP**”) which requires all Energy purchased by Seller for resale at retail, to be renewable Energy;

WHEREAS, Seller desires to sell, and Buyer desires to purchase and receive, the Retail Products, on the terms and conditions set forth herein.

NOW, THEREFORE, the Parties hereto, for good and sufficient consideration, the receipt of which is hereby acknowledged, intending to be legally bound, do hereby agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 *Definitions.*

A-1

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

“Adjustment Period” has the meaning set forth in Section 4.2.

“Affiliate” means, with respect to any Person, any entity controlled, directly or indirectly, by such Person, any entity that controls, directly or indirectly, such Person or any entity directly or indirectly under common control with such Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Agreement” has the meaning set forth in the first paragraph hereof.

“Ancillary Services” means a service necessary to support the transmission of Energy to loads while maintaining reliable operation of the Transmission Operator’s System using Prudent Operating Practices pursuant to the applicable ERCOT Protocols.

“Ancillary Service Amounts” means the Buyer’s Load Ratio Share of the ERCOT applicable Ancillary Services attributable to the DME QSE by ERCOT during the prior month.

“Applicable Law” means, with respect to any Person, the Project, or Seller’s obligations under the Agreement, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, directives, ERCOT Protocols and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person, the Seller’s Interconnection Facilities or the Project (as the case may be).

“Bankrupt” means, with respect to a Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) has been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (vi) has taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (vii) becomes subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) Days, (viii) has failed to remove an involuntary petition in bankruptcy filed against it within sixty (60) Days of the filing thereof, or (ix) becomes subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

“Business Day” means any day except a Saturday, Sunday or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. Central Prevailing Time and close at 5:00 p.m. Central Prevailing Time. Notwithstanding the foregoing, for scheduling purposes only, the term “Business Day” shall have the meaning given to that term from time to time by NERC on its website (<http://www.nerc.com/~oc/offpeaks.html>).

“Buyer” has the meaning set forth in the first paragraph of this Agreement.

“Buyer Ancillary Service” has the meaning set forth in Exhibit A.

“Buyer Ancillary Service Amounts” has the meaning set forth in Exhibit A.

“Capacity” means the same as “capability” for electric power supply and refers to the maximum electric demand, expressed in MW, that the Project can be expected to consume following the completion of each Phase from the electric transmission system under specified conditions for a given time interval.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or Ancillary Service attribute, whether general in nature or specific as to the location or any other attribute of the Project intended to value any aspect of the capacity of the Project to respond to Load Resource scheduling orders for Energy or Ancillary Services from ERCOT or the DME QSE.

“Change of Law” means (i) any change in, addition to, or change in the interpretation or application of any Applicable Law adopted on or after the Effective Date or (ii) any new Applicable Law adopted on or after the Effective Date.

“COD Conditions” means all of the requirements that must be satisfied by Seller and Buyer as a prerequisite to achieving the Commercial Operation Date of each Phase as set forth in Section 3.17.

“Commercial Operation” means, as applicable, that Seller’s Interconnection Facilities and the Project have met the COD Conditions.

“Commercial Operation Date” means the date on which Commercial Operation is achieved for the Project in accordance with Section 3.16.

“Commercially Reasonable” or **“Commercially Reasonable Efforts”** means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Prudent Operating Practices, including, without limitation, electric system reliability and stability, state or other regulatory mandates relating to renewable Energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase,

sale, decision or other action occurs. “**Commercially Reasonable**” or “**Commercially Reasonable Efforts**” shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

“**Confidential Information**” has the meaning set forth in Section 12.1.

“**Contract Price**” has the meaning set forth in Section 3.4.

“**Contract Year**” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

“**Credit Rating**” means, with respect to any entity, the issuer rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by the Rating Agencies.

“**Day**” or “**day**” means a period of twenty-four (24) consecutive hours beginning at 00:00 hours Central Prevailing Time on any calendar day and ending at 24:00 hours Central Prevailing Time on the same calendar day.

“**Delivered Energy**” means the Energy purchased from ERCOT by Seller for Buyer, including all transmission and distribution losses.

“**Delivery Point(s)**” means the 13.2 kV point of interconnection with Seller’s distribution systems at the high side of Buyer’s transformers located at the Site.

“**Delivery Term**” means the period of time commencing upon the Commercial Operation Date of Phase I of the Project and terminating at the end of the tenth (10th) Contract Year.

“**Delivery Term Security**” means collateral provided by Buyer to Seller pursuant to Section 8.1, to secure its obligations hereunder, which shall be in the form of a Letter of Credit or cash.

“**Disclosing Party**” has the meaning set forth in Section 12.1.

“**Dispute**” has the meaning set forth in Section 16.1.

“**DME QSE**” means the qualified scheduling entity, as defined in the ERCOT Protocols, that manages the total electric demand of the City of Denton excluding any qualified scheduling entity operated by DME for a specific DME customer.

“**DRRP**” has the meaning set forth in the Recitals to this Agreement.

“Early Termination Date” has the meaning set forth in Section 6.2.

“Effective Date” has the meaning set forth in the Preamble to this Agreement.

“Electric Tariff” means the then current Denton Municipal Electric rate schedule as approved by the Denton City Council.

“Emergency” means that an “Emergency Condition” has been declared as provided in the ERCOT Protocols.

“Energy” means electric energy generated, which shall be in the form of three (3)-phase, sixty (60) Hertz, alternating current.

“Equitable Defenses” means any bankruptcy, insolvency, reorganization or other laws affecting creditors’ rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

“ERCOT” means the Electric Reliability Council of Texas, Inc., or its successor.

“ERCOT North Hub” means ELECTRICITY-ERCOT-NORTH 345KV HUB-REAL TIME" published by the ERCOT at http://www.ercot.com/content/cdr/html/real_time_spp

“ERCOT Protocols” means the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards and criteria of ERCOT. For the purposes of determining responsibilities and rights at a given time, the ERCOT Protocols, as amended in accordance with the change procedures described in the ERCOT Protocols, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.

“Event of Default” has the meaning set forth in Section 0.

“Executives” has the meaning set forth in Section 16.2(a).

“Force Majeure Event” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (1) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (2) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (3) such event is not the direct or indirect result of the fault or negligence of the Party seeking to have its performance obligations

excused thereby.

(a) Subject to the foregoing, events that could qualify as a Force Majeure Event include, but are not limited to the following:

(i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;

(iii) strikes, work stoppage or other labor disputes of a party other than Seller not caused by Seller (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(iv) explosion, accident or epidemic;

(v) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials; or

(vi) vandalism.

(b) A Force Majeure Event shall not be based on:

(i) Buyer's inability economically to use the Retail Products purchased hereunder;

(ii) Seller's ability to sell the Retail Products at a price greater than the price set forth in this Agreement;

(iii) an inability to obtain sufficient labor, equipment, materials or other resources to build or operate the Project or the Seller's Interconnection Facilities, except to the extent that a Party's inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event described in any of subsections (a)(i) through (a)(vi) above; or

(iv) Buyer's failure to obtain financing or other funds.

"Franchise Fee Rate" means the prevailing franchise fee rate on Denton Municipal Electric's revenues as approved by the Denton City Council.

"Governmental Approvals" means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any Applicable Law, that are required for the use and operation of the Project.

“Governmental Authority” means any federal, state, local or municipal government body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; any court or governmental tribunal; or any independent operator, regional transmission organization, ERCOT or other regulatory body; in each case having jurisdiction over either Party, the Project, the Site, Seller’s Interconnection Facilities, or the Transmission Operator’s System.

“Governmental Charges” has the meaning set forth in Section 11.2.

“Incremental TCOS Demand” means the incremental demand contribution of the Project served under the Index Supply of Retail Product to Seller’s 4CP demand expressed in MW as specified in PUCT rule 25.192, which will be determined by Seller using the following methodology: (Project’s June_y coincident peak contribution *plus* July_y coincident peak contribution *plus* August_y coincident peak contribution *plus* September_y coincident peak contribution) *divided by* 4, where y is the calendar year during the Term. For the avoidance of doubt, Incremental TCOS Demand charges apply to the full calendar year after the Project has contributed to Seller’s 4CP demand and will continue to be due from Buyer to Seller after the Term of this Agreement if a Contract Year ends prior to the end of the calendar year.

“Index Supply” means any Retail Products sold to Buyer by Seller that is priced pursuant to Attachment A.

“Initial Negotiation End Date” has the meaning set forth in Section 16.2(a).

“Interest Rate” means the lower of (i) annual rate equal to the Prime Rate then in effect plus two percent (2%) and (ii) the maximum interest permitted by Applicable Law.

“Lease Agreement” means the Lease Agreement between Buyer and Seller for use of the Site upon which the Project will be constructed which is being executed contemporaneously herewith.

“Letter(s) of Credit” means one or more irrevocable, transferable standby letters of credit, substantially in the form of Exhibit F, issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody’s, and having assets of at least Ten Billion Dollars (\$10,000,000,000), with any modifications reasonably acceptable to the Party in whose favor the letter of credit is issued.

“Load Ratio Share” means the fraction of the monthly Retail Products sales (in kilowatt hours) divided by the monthly total energy sales (in kilowatt hours) of Seller to the load served by the DME QSE.

“Load Serving Entity” shall have meaning as defined in the ERCOT Protocols.

“Manager” has the meaning set forth in Section 16.2(a).

“Metering System” means all meters, metering devices and related instruments used to measure and record Delivered Energy.

“Moody’s” means Moody’s Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“MW” means a megawatt (or 1,000 kilowatts) of alternating current electric generating capacity.

“MWh” means a megawatt hour of Energy.

“NERC” means the North American Electric Reliability Corporation, or its successor.

“Non-Defaulting Party” has the meaning set forth in Section 0.

“Notice” has the meaning set forth in Section 17.1.

“Operating Procedures” has the meaning set forth in Exhibit G.

“Parties” has the meaning set forth in the first paragraph of this Agreement.

“Party” has the meaning set forth in the first paragraph of this Agreement.

“Person” means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity, limited liability company or any other entity of whatever nature.

“Phases” (collectively Phase I and Phase II, and each a **“Phase”**) means the stages of development that may be requested to be energized sequentially by Buyer upon completion of Seller’s Interconnection Facilities.

“Phase I”, specifically, refers to Buyer’s request for the Project to be energized up to a minimum of [REDACTED].

“Phase II”, specifically, refers to Buyer’s request for the Project to be energized up to a total maximum of [REDACTED].

“Planned Outages” means the scheduled outage of the Transmission Operator’s System as scheduled with ERCOT that impacts the Project.

“Power Ready Date” has the meaning set forth in Section 3.16(a).

“Pre-Pay Amounts” has the meaning set forth in Section 7.1(a).

“Prime Rate” means the interest rate (sometimes referred to as the “base rate”) for large commercial loans to creditworthy entities announced from time to time by Citibank, N.A. (New York), or its successor bank, or, if such rate is not announced, the rate published in The Wall Street Journal as the “Prime Rate” from time to time (or, if more than one rate is published, the arithmetic average of such rates), in either case determined as of the date the obligation to pay interest arises.

“Project” has the meaning set forth in the Recitals and includes Buyer’s proposed facilities and equipment at the Site. The Project is more particularly described in Exhibit B.

“Prudent Operating Practices” means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for facilities of similar size, type and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and standards of economy and expedition. Prudent Operating Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to a spectrum of possible practices, methods or acts generally accepted in the industry and having due regard for, among other things, manufacturers’ warranties and the requirements of any Governmental Authority of competent jurisdiction.

“PUCT” means the Public Utilities Commission of Texas, or its successor.

“Ratings Agency” means either S&P or Moody’s.

“Receiving Party” has the meaning set forth in Section 12.1.

“Referral Date” has the meaning set forth in Section 16.2(a).

“Renewable Energy Credit”/“REC” means a credit representing one MWh of renewable energy that is physically metered and verified in Texas and meets the requirements as set forth in Protocol Section 14, State of Texas Renewable Energy Credit Trading Program.

“Renewal Term” has the meaning set forth in Section 2.1.

“Retail Products” has the meaning set forth in Section 3.1.

“S&P” means Standard & Poor’s or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“SCADA” means Supervisory Control and Data Acquisition.

“Seller” has the meaning set forth in the first paragraph of this Agreement.

“Seller Curtailment” means any curtailment of delivery of Retail Products resulting from any of the following: (a) a failure of Seller’s Interconnection Facilities that causes the Project to be disconnected, suspended or interrupted, in whole or in part, (b) Buyer’s default under this Agreement or other inability or failure to accept delivery of any Retail Products, or (c) a System Curtailment.

“Seller Distribution System Limitation” means a malfunction in Seller’s distribution equipment and/or distribution system that reduces or eliminates the ability of Seller to deliver the Retail Products to Buyer.

“Seller’s Interconnection Facilities” means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Seller’s distribution system, up to, and on Seller’s side of, the Delivery Point.

“Site” means the leased parcels of real property on which the Project will be constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of the Project. The Site is more fully described in the Lease Agreement.

“System Curtailment” means any curtailment of delivery of Retail Products as the result of any of the following: (i) an Emergency, or (ii) transmission system maintenance, repairs or replacements by the Seller acting in its role as a Transmission Operator made necessary by events of Force Majeure or operational action taken by ERCOT to maintain transmission system reliability or to comply with reliability standards of NERC and (iii) Seller Distribution System Limitations.

“System Curtailment Order” means the instruction from ERCOT, Seller in its role as a transmission and distribution operator for ERCOT to reduce load at the Project by an amount, and for the period of time, set forth in such order, due to a System Curtailment.

“Term” has the meaning set forth in Section 2.1.

“Transmission Operator” means ERCOT or any successor independent system operator, regional transmission operator or other transmission operator from time to time having authority to control the transmission balancing authority into which the Project is interconnected.

“Transmission Operator’s System” means the contiguously interconnected electric transmission facilities over which the Transmission Operator has rights to manage the bulk transmission of Energy and Ancillary Service to the Delivery Point.

“TRE” means the Texas Reliability Entity, Inc., or its successor.

1.2 Interpretation.

The following rules of construction shall be followed when interpreting this Agreement:

- (a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter;
- (b) words used or defined in the singular include the plural and vice versa;
- (c) references to Articles and Sections refer to Articles and Sections of this Agreement;
- (d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes;
- (e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder;
- (f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined;
- (g) references to money refer to legal currency of the United States of America;
- (h) the words “include” or “including” shall mean “including without limitation;”
- (i) the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified;
- (j) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;
- (k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;
- (l) the word “or” will have the inclusive meaning represented by the phrase “and/or”, unless the context clearly indicates that an exclusive meaning is intended.
- (m) the words “shall” and “will” mean “must”, and shall and will have equal force and effect and express an obligation; and
- (n) the words “writing,” “written” and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2 TERM

2.1 *Term; Renewals*

The “**Term**” of this Agreement, shall commence on the Effective Date and continue until the end of the [REDACTED] Contract Year unless sooner terminated in accordance with the terms hereof. Subsequently, the Term shall automatically renew for an additional period of [REDACTED] (the “**Renewal Term**”) unless either Party provides written notice to the other Party of its intent to terminate the PPA at least six (6) months prior to the expiration of the initial Term. Upon the expiration of the Renewal Term, the PPA may be renewed or extended by mutual consent of the Parties, upon terms and conditions upon which the Parties mutually agree in writing in connection with such extension or renewal. For the Renewal Term and or any further renewal or extension to be effective, the Lease Agreement must also be extended or renewed for the same amount of time.

2.2 *Termination.*

Either Party shall have the right to terminate this Agreement in the event (i) that the Lease Agreement is terminated or (ii) the Lease Agreement fails to become effective due to the failure to secure the necessary zoning and city council approval contemplated therein.

ARTICLE 3 OBLIGATIONS AND DELIVERIES

3.1 *Retail Products.*

The “**Retail Products**” to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is “all requirements”, including Energy, Ancillary Services, Renewable Energy Credits and all other necessary services to effectuate the delivery of all services herein, in accordance with the terms hereof, in an amount equal to the full electric service demand of the Project, not to exceed the maximum capacity for each of Phase I or Phase II following the completion of each Phase.

3.2 *Purchase and Sale.*

Unless specifically excused by the terms of this Agreement, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Retail Products at the Delivery Point, and Buyer shall pay Seller for the Retail Products in accordance with the terms hereof. Buyer shall buy Retail Products exclusively from Seller. Seller shall be responsible for all actions and related costs required to deliver the Retail Products to the Delivery Point. Seller shall be deemed to be in control of the Retail Products up to and until delivery and receipt at the Delivery Point, and Buyer shall be deemed to be in control of such Retail Products from and after delivery and receipt at the Delivery Point.

3.3 *Services.*

Seller shall provide those certain services to Buyer associated with the Project, as set forth in Exhibits C and F hereto.

3.4 *Contract Price.*

Buyer shall pay Seller the amounts as set forth in Exhibit A.

3.5 *Capacity Attributes.*

In the event the PUCT or ERCOT establishes a capacity market, as that term is commonly understood, or any other reliability measures requiring Seller to show resources or Ancillary Services in reserve to satisfy Buyer's load requirements, Buyer shall reimburse Seller for the market cost of the Capacity Attributes plus charges required by ERCOT protocols associated with the procurement of such Capacity Attributes.

3.6 *Performance Excuses*

The performance of Seller's obligation to deliver the Retail Products shall be excused only (i) during periods of Force Majeure, but only to the extent which delivery is impacted by Force Majeure, (ii) during a Seller Curtailment, (iii) during System Curtailments, and (iv) during Planned Outages.

3.7 *Delivery Interruption.*

Retail Products shall not be subject to any recall by Seller, other than as provided in Sections 3.8, a System Curtailment Order, a Transmission Operator's System outage, and/or a Seller Curtailment.

3.8 *Scheduling; Planned Outages*

The Parties shall comply with all ERCOT Protocols, associated operation standards and guidelines, and Operating Procedures.

3.9 *Planned Outage Notifications*

No later than (A) thirty (30) days prior to the anticipated Commercial Operation Date, and (B) at least at least sixty (60) days before May 1 of each calendar year throughout the Term, Seller shall provide Buyer with an annual forecast of Planned Outages ("Outage Schedule"). Seller shall provide the following information for each proposed Planned Outage: (1) Start date and time; (2) end date and time; (3) capacity available to the Project during the Planned Outage. Seller may update such Outage Schedule as necessary to comply with ERCOT Protocols. Any such update to the Outage Schedule must be promptly submitted to Buyer. Notwithstanding this notification provision, Seller makes no representation on ERCOT's determination of when transmission curtailments or outages will occur, and Seller will take commercially reasonable measures to notify Buyer of such ERCOT curtailments and/or outages that will impact the Project.

3.10 *Sales for Resale.*

All Retail Products delivered to Buyer hereunder shall be for the exclusive use by the Project.

3.11 *Standards of Care.*

- (a) Buyer shall comply with all applicable requirements of Applicable Law, ERCOT, TRE and NERC relating to the Project and the Seller's Interconnection Facilities (including those related to construction, ownership and/or operation of the Project and the Seller's Interconnection Facilities).
- (b) Seller shall comply with all applicable requirements of Applicable Law, ERCOT, TRE and NERC relating to the Seller's Interconnection Facilities.
- (c) Each Party shall perform all scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of ERCOT and Prudent Operating Practices.
- (d) Buyer agrees to abide by all NERC, TRE and ERCOT reliability requirements.
- (e) Seller agrees to abide by all NERC, TRE and ERCOT reliability requirements regarding interconnection of the Project, including the requirements of the Seller as transmission operator.

3.12 *Curtailment.*

- (a) Seller shall not curtail or interrupt deliveries of the Index Supply Retail Products to the Project as required by this Agreement except as set forth in Section 3.6 and Section 3.7.
- (b) Buyer shall at all times during the Term comply with the directives of the Seller given pursuant to the Switching Agreement (Exhibit E).
- (c) If Buyer fails to comply with the curtailment directives and instructions set forth in any Seller Curtailment or System Curtailment Order, Buyer shall be liable to Seller for any penalties or fines imposed on Seller by any Governmental Authority and any actual direct damages suffered by Seller as a result of Buyer's failure to comply. In the event that Buyer fails to comply, Seller shall have the right, but not the obligation, to open the breakers to the Project to force compliance with the Seller Curtailment or System Curtailment Order subject to whatever the Project requirements are for a shutdown to protect the Buyer's equipment. Seller shall not have any liability for exercising such right nor shall Buyer be excused from any damages that may arise in the case that Seller fails to do so. Notwithstanding the foregoing, Buyer's failure to comply with a Seller Curtailment or System Curtailment Order shall not be a Buyer Event of Default; but, Buyer's failure to reimburse Seller for any fines, penalties or damages actually incurred by Seller as a result of Buyer's failure to comply shall be considered a default under this

Agreement.

- (d) If Seller fails to communicate ERCOT curtailment directives and instructions set forth in any Seller Curtailment or System Curtailment Order, Seller shall be liable for any penalties or fines imposed on Seller by any Governmental Authority and any actual direct damages suffered by Buyer as a result of Seller's negligent or willful failure to communicate.

3.13 *Change of Law.*

If during the Term of this Agreement there occurs any material Change of Law (including promulgation, enactment, repeal and amendment) including PUCT Substantive Rule §25.173, then promptly after any such government action and written notice by the affected Party to the other Party, the Parties shall enter into good faith negotiations to make the minimum changes to this Agreement necessary to render this Agreement in compliance with any such government action and shall take such other actions in compliance with the terms and conditions of such government action while preserving to the maximum extent possible the benefits, burdens and obligations of each Party under this Agreement. If any Change of Law results in materially increased costs or expenses to Buyer, then Buyer shall have the right to terminate this Agreement. Notwithstanding Buyer's right to terminate the Agreement due to a Change in Law, Buyer shall be liable to Seller for any ERCOT resettlement amounts due for all Retail Products. For the avoidance of doubt, changes to the wholesale market by ERCOT or the Public Utility Commission of Texas ("PUCT") including potential capacity or capacity like charges, increased Ancillary Service charges, ERCOT administrative charges, other charges associated with Load Serving Entities, Load Resources and/or Controllable Load Resources, as so defined in the ERCOT protocols, shall be the sole responsibility of Buyer

3.14 *Project Development.*

- (a) Buyer, at no cost to Seller, shall:
 - (i) Design and construct the Project. Seller will provide [REDACTED] feeds to the Project. Project design must include the ability to carry minimum loads of both [REDACTED] phases on a single [REDACTED] feeder that will be served by an Index Supply.
 - (ii) Pay for the construction of Seller's Interconnection Facilities and Seller will be responsible for the development, design and construction of Seller's Interconnection Facilities.
 - (iii) Secure all Governmental Approvals and other approvals necessary for the construction and initial operation and maintenance of the Project.
 - (iv) Complete all environmental impact studies necessary for the construction, operation, and maintenance of the Project.

- (v) Provide to Seller Buyer's electrical specifications and design drawings pertaining to the Project.
 - (vi) Maintain those policies of insurance in full force and effect as required by Exhibit E.
 - (vii) On a monthly basis during the construction phases of the Project, provide to Buyer a progress report on the Project construction and upon reasonable request of Seller, schedule a meeting between representatives of Buyer and Seller to review such report and discuss Buyer's construction progress.
 - (viii) Provide access to Seller, its authorized agents, employees and inspectors for purpose of inspecting the Project construction site or on-site Buyer data and information pertaining to Seller's Interconnection Facilities during normal business hours upon reasonable advance Notice.
 - (ix) Once finally and properly completed and in service (following an inspection by Seller to confirm the same): (i) all equipment, and systems in and from the RD Wells Substation to the Delivery Point will become property of the Seller; (ii) Buyer shall convey good and indefeasible title to such equipment to Seller and execute any documents reasonably requested to effectuate the same; and (iii) Buyer shall transfer to Seller any warranties that it is entitled to in connection with the Seller's Interconnection Facilities.
- (b) Seller, at no cost to Buyer, shall design and construct protective relaying systems to the extent required to accommodate the delivery of the Retail Products, including, but not limited to, [REDACTED] feeder lines to the Project.
 - (c) Seller shall, at Buyer's expense, develop, design and construct Seller's Interconnection Facilities.

3.15 *Intentionally Omitted.*

3.16 *Power Ready Date; Commercial Operation Date.*

- (a) Seller shall be responsible for designing and constructing (i) Seller's Interconnection Facilities; and (ii) protective relaying systems to the extent required to accommodate the delivery of the Retail Products, including, but not limited to, two [REDACTED] feeder lines to the Project that are capable of energizing the Project to the full [REDACTED] capacity. Seller shall use Commercially Reasonable Efforts to complete its respective portion(s) of Seller's Interconnection Facilities and the relaying systems no later than the following date (such date, the "**Power Ready Date**");

Within ninety (90) days of Buyer obtaining the required permits to construct the Project from the City of Denton.

(b) Buyer shall use Commercially Reasonable Efforts to energize the Project within five (5) days of the Project receiving the occupancy permit from the City of Denton (such date, the “**Commercial Operation Date**”). Buyer shall use Commercially Reasonable Efforts to energize Phase II of the Project within twelve (12) months of the Commercial Operation Date.

(c) The Power Ready Date and Commercial Operation Date may be extended due to delays from supply chain disruptions, logistics disruptions, labor shortages, or the unavailability of any necessary equipment for Seller’s Interconnection Facilities or the Project, wherein such delays are despite the Parties’ Commercially Reasonable Efforts, or for the duration of Force Majeure events impacting construction of the Seller’s Interconnection Facilities or the Project.

3.17 COD Conditions.

The Parties shall cooperate to facilitate Seller’s testing of the Seller’s Interconnection Facilities necessary to satisfy the COD Conditions for each Phase. Each Party shall provide the other Party Notice of the date such Party believes that the Seller’s Interconnection Facilities have been completed. Seller shall provide notice of completion of the Seller’s Interconnection Facilities on an individual and incremental basis pending resolution of any objections, provided, however, that Buyer shall in all cases have up to five (5) Business Days to review and object to each notice, and such notice shall be deemed accepted by Buyer if Buyer fails to object within such time period. The COD Conditions are:

- (a) all necessary and material permits, consents, licenses, approvals, registrations and authorizations required to be obtained by Buyer from any Governmental Authority to construct the Project in compliance with Applicable Law and this Agreement have been obtained and are in full force and effect;
- (b) the Seller’s Interconnection Facilities are available to commence normal operations and able to deliver Retail Products from Seller at the Delivery Point and in accordance with Operating Procedures;
- (c) the Seller’s Interconnection Facilities are fully interconnected to the Transmission Operator’s System, have been fully tested, and are acceptable to the Transmission Operator, without experiencing any abnormal or unsafe operating conditions on any interconnected system;
- (d) all other requirements relating to the completion of the Project and the Seller’s Interconnection Facilities set forth in this Agreement have been fully satisfied.

ARTICLE 4 METERING AND MEASUREMENT

4.1 *Metering System.*

- (a) Seller shall ensure the Metering Systems, including all equipment required to provide Seller, or their agents and successors, with a MW signal of the Project, are designed, located, constructed, installed, owned, operated and maintained in accordance with Prudent Operating Practices in order to measure and record the amount of Energy delivered to the Project at the Delivery Point. The meters shall be of a mutually acceptable accuracy range and type to the Parties, as agreed upon in the Operating Procedures. The Metering Systems will be owned, operated and maintained by Seller. Seller will be responsible for the operation and periodic testing and calibration of the Metering System.
- (b) Seller will design, procure, install and test all metering equipment required for the Project. All equipment not supplied by Seller shall be in accordance with Seller specifications. Buyer shall reimburse Seller for any and all costs and expenses incurred in procuring and installing the metering equipment pursuant to this Article 4.
- (c) Seller shall ensure that the Metering Systems are designed to provide required meter data to Seller, or their agents and successors, consistent with Prudent Operating Practices in order to measure and record the amount of Energy delivered to the Project at the Delivery Point.

4.2 *Inspection and Adjustment.*

- (a) After the Commercial Operation Date of the Project, any meters owned, operated, and maintained by the Seller will be inspected and tested to conform to Prudent Operating Practices. Seller shall contact Buyer for the purpose of witnessing and verifying proper inspection and adjustment, if any, to meters. If Buyer is given notice of a test of these meters for the purpose of witnessing and verifying proper inspection and adjustment, Seller will notify Buyer.
- (b) If any seal securing the metering is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of Energy made by the Metering System during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made (“**Adjustment Period**”). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period,

the amount of the adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Buyer shall pay Seller any additional amounts then due for deliveries of Energy during the Adjustment Period or, conversely, Buyer shall be entitled to a credit against any subsequent payments for Energy.

- (c) Buyer and its representatives shall be entitled to be present at any test, inspection, maintenance, adjustments and replacement of any part of the Metering System relating to obligations under this Agreement.

ARTICLE 5 RETAIL PRODUCTS

Seller shall supply Index Supply to Buyer, in accordance with attached Exhibit A to this Agreement.

ARTICLE 6 EVENTS OF DEFAULT

6.1 Events of Default.

An “**Event of Default**” shall mean,

- (a) with respect to a Party that is subject to the Event of Default the occurrence of any of the following:

- (i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;

- (ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof;

- (iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) days after Notice thereof; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) day cure period, such Party shall have such additional time (not exceeding an additional ninety (90) days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy;

- (iv) such Party becomes Bankrupt;

- (v) any event of default by such Party under the Lease Agreement;
- (vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 13; or
- (vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) With respect to Buyer, if Buyer fails to build the Project and is unable to consume at least 1 MW of electricity for 12 consecutive hours within ninety (90) days of the Power Ready Date, after giving effect to any extension under 3.16(b), and such failure is solely attributable to Buyer; and (ii) if Buyer fails to satisfy its Delivery Term Security requirements set forth in Section 8.1 within five (5) Business Days after receipt of Notice of such failure.

6.2 Remedies; Declaration of Early Termination Date.

If an Event of Default with respect to a defaulting Party shall have occurred and be continuing, the other Party (“**Non-Defaulting Party**”) shall have the right to the following:

- (a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than ten (10) days after such Notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”);
- (b) accelerate all amounts owing between the Parties and end the Delivery Term effective as of the Early Termination Date;
- (c) withhold any payments due to the defaulting Party under this Agreement;
- (d) send Notice, designating to the defaulting Party a date and time certain no later than five (5) days after a payment Event of Default, a date and time certain that the Non-Defaulting Party may suspend performance; and
- (e) to the extent the Non-Defaulting Party is the Seller, exercise its rights pursuant to Section 8.1, as applicable, to draw upon and retain any portion of Delivery Term Security required to satisfy Buyer’s obligations under this Agreement.

6.3 Rights and Remedies Are Cumulative.

Except where this Agreement expressly provides that a Party’s remedies are sole and exclusive, the rights and remedies of a Party pursuant to this 0 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

6.4 Mitigation.

Any Non-Defaulting Party shall attempt to mitigate its costs and losses resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 7 PAYMENT

7.1 *Billing and Payment.*

Payment Amounts. Consistent with Exhibit A, payment for Retail Products, shall be paid by Buyer to Seller as set forth below.

(a) Pre-Pay Amounts – For all Index Supply, Buyer shall pre-pay Seller on a weekly basis an amount sufficient to maintain a target balance equivalent to ten (10) days of the ERCOT Amounts (as defined in Exhibit A) as determined by Seller

(i) Seller shall provide to Buyer a weekly Pre-pay Invoice for pre-pay replenishment including, as backup, the ERCOT invoices and settlement statements for the Project QSE processed and paid in the prior weekly period and any other applicable Load Ratio Share charges.

(ii) Buyer shall remit to Seller amounts owed for such Pre-pay replenishment amounts within two (2) Business Days of the issuance date of the invoice.

(b) Monthly Invoices. Seller shall transmit via email to Buyer Retail Products invoices as detailed herein:

Indexed Supply – Seller shall transmit to Buyer monthly invoices for Non-ERCOT Amounts (as defined on Exhibit A) including any adjustments due to prior period invoices.

(c) Any disputes of invoices claimed by Buyer shall be communicated with Seller. Resolution of such disputes will be communicated via corrected or adjusted invoices.

(d) With respect to all invoices, if either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by facsimile or e-mail.

7.2 *Disputes and Adjustments of Invoices.*

A Party may, in good faith, (a) dispute the correctness of any invoice, any adjustment to an invoice, rendered under this Agreement, or that an allocation or assignment of costs is not fair and equitable or otherwise inconsistent with Prudent Operating Practices, or (b) adjust any invoice for any arithmetic or computational error, in each case within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the full amount of the invoice shall be required to be made when due under protest by the disputing Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment or credit shall be made within five (5) Business Days of such resolution. Inadvertent overpayments shall be returned upon request within ten (10) calendar days. Any overpayment not returned within ten (10) calendar days, will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the date the return of the overpayment was requested to but excluding the date the overpayment is returned in full. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 0 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the twelve (12) month period.

ARTICLE 8

INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

8.1 Buyer's Performance Assurance.

- (a) Buyer agrees to deliver to Seller collateral to secure its obligations under this Agreement and shall maintain such collateral in full force and effect during the Term of this Agreement. Prior to the Commercial Operation Date, Buyer shall provide to Seller the following Delivery Term Security: for Index Supply quantities expressed in MW of Capacity, Delivery Term Security in the amount of [REDACTED] of Capacity (Buyer shall at all times have sufficient Delivery Term Security of at least [REDACTED] of Capacity subject to the Index Supply). Seller will refund or credit the surplus amounts of Delivery Term Security to Buyer on monthly basis.
- (b) Upon termination, Seller shall have the right to draw upon Buyer's Delivery Term Security for any amounts owed to Seller under this Agreement if not paid when due pursuant to Section 0. Buyer's Delivery Term Security shall be subject to replenishment.
- (c) Buyer's obligation to maintain the applicable Delivery Term Security shall terminate upon the occurrence of the following: (i) the Term of the Agreement has ended, or the Agreement has been terminated pursuant to Section 0, as applicable; and (ii) all payment obligations of Buyer arising under this Agreement, including indemnification payments and Incremental TCOS Demand charges, or other damages are paid in full. Upon the occurrence of the foregoing, Seller shall promptly return to Buyer the unused portion of the applicable Delivery Term Security.

- (d) Any Letter of Credit provided by Buyer pursuant to this Agreement must provide, among other things, that the Seller is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed, extended or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to satisfy the requirements of an issuer of a Letter of Credit under this Agreement, within ten (10) Business Days after receipt of Notice thereof by Seller to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to the issuer of the Letter of Credit and Seller. Costs of any Letters of Credit provided by Buyer shall be borne by Buyer.
- (e) Seller shall apply the proceeds of collateral realized upon the exercise of any such rights or remedies under this Article 8 to reduce Buyer's obligations under the PPA, subject to Seller's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE 9 REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 *Representations and Warranties.*

On the Effective Date, each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) (i) it has all Governmental Approvals necessary for it to perform its obligations under this Agreement, and (ii) all Governmental Approvals necessary to construct, operate and maintain the Project and related interconnection facilities in the case of Buyer;
- (c) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;
- (d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;
- (e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.
- (f) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;
- (g) no Event of Default with respect to it has occurred and is continuing and no such

event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

- (h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and
- (i) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or the ability to make or take delivery of the Retail Products as provided in this Agreement.

9.2 *General Covenants.*

Each Party covenants that throughout the Term:

- (a) it shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;
- (b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement;
- (c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any applicable Law; and
- (d) it shall not dispute its status as a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

9.3 *Seller’s Covenants.*

Seller covenants as follows:

- (a) from the date hereof through the expiration or termination of this Agreement, Seller shall comply with this Agreement and Applicable Laws;
- (b) Seller will, at Seller’s expense, reasonably cooperate with Buyer in opposing, and will not support any action of any regulatory body having jurisdiction thereover that could result in the modification or vitiation of any of the terms or conditions hereof or have any other material adverse effect on Buyer, the Project or this Agreement; and

Seller’s obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Seller is a party and shall be included as part of the rate calculations required by any rate-related

debt covenants to which Seller is bound.

ARTICLE 10 TITLE, RISK OF LOSS, INDEMNITIES

10.1 *Title and Risk of Loss.*

Title to and risk of loss related to the Retail Products shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Retail Products free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

10.2 *Indemnities by Seller.*

To the extent allowed by Applicable Law, Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys' fees ("**Claims**") resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Retail Products delivered under this Agreement up to and at the Delivery Point, (ii) the failure by Seller to comply with Applicable Law, or (iii) any Governmental Charges for which Seller is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

10.3 *Indemnities by Buyer.*

To the extent allowed by Applicable Law, Buyer shall release, indemnify, defend, and hold harmless, Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Retail Products received by Buyer under this Agreement after the Delivery Point, (ii) the failure by Buyer to comply with Applicable Law, (iii) any Governmental Charges for which Buyer is responsible hereunder, or (iv) Buyer's development, permitting, construction, ownership, operation and/or maintenance of the Project, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

ARTICLE 11

GOVERNMENTAL CHARGES

11.1 *Cooperation.*

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

11.2 *Governmental Charges.*

Buyer shall pay or cause to be paid all taxes imposed by any Governmental Authority (“**Governmental Charges**”) on or with respect to the Retail Products or the transaction under this Agreement including ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. In the event Seller is required by Law or regulation to remit or pay Governmental Charges which are Buyer’s responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. Nothing in this Section 11.2 shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the Law.

ARTICLE 12

CONFIDENTIAL INFORMATION

12.1 *Confidential Information.*

- (a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Project that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the “**Confidential Information**”). Notwithstanding the confidential and proprietary nature of such Confidential Information, the Parties (each, the “**Disclosing Party**”) may make such Confidential Information available to the other (each, a “**Receiving Party**”) subject to the provisions of this Section 12.1.
- (b) Upon receiving or learning of Confidential Information, the Receiving Party shall:
 - (i) Treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as required by law, subject to the restrictions set forth below;
 - (ii) Restrict access to such Confidential Information to only those employees, Affiliates, subcontractors, suppliers, vendors, and advisors whose access is reasonably necessary for the development, construction, operation or maintenance of the Project and for the purposes of this

Agreement who shall be bound by the terms of this Section 12.1;

- (iii) Use such Confidential Information solely in connection with the Project and for purposes of this Agreement; and
- (iv) Upon the termination of this Agreement, destroy or, if requested by the Disclosing Party, return any such Confidential Information in written or other tangible form and any copies thereof.

(c) The restrictions of this Section 12.1 do not apply to:

- (i) Release of this Agreement to any Governmental Authority required for obtaining any approval or making any filing pursuant to Section 11.2, *provided* that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;
- (ii) Information which is, or becomes, publicly known or available other than through the action of the Receiving Party in violation of this Agreement;
- (iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party, *provided* that the Person or Persons developing such information have not had access to any Confidential Information;
- (iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and
- (v) Information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including any Freedom of Information Act or Texas Public Information Act request); *provided, however*, that the Receiving Party, prior to such disclosure, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain a protective

order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

- (d) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published (other than information that is, in the reasonable written opinion of counsel to the Disclosing Party, required to be distributed or disseminated pursuant to Applicable Law, *provided* that the Disclosing Party has given Notice to, and an opportunity to prevent disclosure by, the other Party as provided in Section 12.1(c)(v)), concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed. This provision shall not prevent the Parties from releasing information which is required to be disclosed in order to obtain permits, licenses, releases and other approvals relating to the Project or as are necessary in order to fulfill such Party's obligations under this Agreement.
- (e) The obligations of the Parties under this Section 12.1 shall remain in full force and effect for one (1) year following the expiration or termination of this Agreement.

12.2 Texas Public Information Act.

Notwithstanding any other provision of this Article 12, the Parties understand that Seller is a governmental entity and is required to comply, and Seller does hereby agree to comply, with the Texas Public Information Act (Chapter 552 of the Texas Government Code) when responding to requests for records in its possession except where the information is considered public power utility competitive information protected by the provisions of the Texas Government Code, Sections 552.101, 552.104, 552.110 and/or 552.133. Disclosure of information required by the Texas Public Information Act shall not constitute a breach of any provision contained herein if so ordered by the State of Texas Attorney General. Notwithstanding the foregoing, the Parties acknowledge and agree that this Agreement is confidential, commercially sensitive information protected from disclosure pursuant to the Texas Public Information Act. In the event that Seller is required by legal or regulatory authority to disclose any Confidential Information, Seller shall promptly notify Buyer of such request or requirement prior to disclosure, if permitted by law, so that Buyer may seek an appropriate protective order. In the event that a protective order or other remedy is not obtained, Seller agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the subpoena or demand under Applicable Law, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information. Buyer understands that Seller is bound by any rulings or decisions made by the Texas Attorney General, or other governing body or court that holds binding authority over Seller relative to Confidential Information.

ARTICLE 13 ASSIGNMENT

13.1 Successors and Assigns.

This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

13.2 Assignment by Buyer.

- (a) This Agreement shall not be assigned or transferred by Buyer without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, this Agreement may be assigned, without the prior written consent of Seller, (i) by operation of law or (ii) to a purchaser of all or substantially all of Buyer's business, including the Project, so long as such assignee has expressly agreed in writing to assume all obligations of Buyer under this Agreement.
- (b) If the rights and interests of Buyer in this Agreement shall be assumed, sold or transferred as herein provided, the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof.

13.3 Assignment by Seller.

- (a) This Agreement shall not be assigned or transferred by Seller without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.
- (b) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof.

ARTICLE 14 FORCE MAJEURE

14.1 Force Majeure Events.

To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then, the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim. The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Retail Products that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event.

14.2 *Limitations on Effect of Force Majeure Events.*

In no event will any delay or failure of performance caused by Force Majeure extend this Agreement beyond its stated Term. In the event that any delay or failure of performance caused by Force Majeure affecting a Party continues for an uninterrupted period of three hundred sixty-five (365) Days from its inception the Party not claiming Force Majeure may, at any time following the end of such period, terminate this PPA upon written notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

ARTICLE 15 LIMITATIONS ON LIABILITY

15.1 *Disclaimer of Warranties.*

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

15.2 *Limitations on Liability.*

TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE INDEMNITOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE; PROVIDED, HOWEVER, SELLER DOES NOT WAIVE ITS GOVERNMENTAL IMMUNITY, AS APPLICABLE. EXCEPT FOR A PARTY'S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 16 DISPUTE RESOLUTION

16.1 *Intent of the Parties.*

Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement (a “**Dispute**”) is the dispute resolution procedure set forth in this Article 16. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this Article 16.

16.2 *Management Negotiations.*

- (a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party’s authorized representative designated in writing as a representative of the Party (each a “**Manager**”). Either Manager may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party’s receipt of such request, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of their first meeting (“**Initial Negotiation End Date**”), the Managers shall refer the matter to the designated senior officers of their respective companies that have authority to settle the dispute (“**Executives**”). Within five (5) Business Days of the Initial Negotiation End Date (“**Referral Date**”), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.
- (b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.
- (c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.
- (d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the Notice to meet, pursuant to Section 16.2(a) above, refuses or does not meet within the ten (10) Business Day period specified in Section 16.2(a) above, and subject to Sections 15.2, 17.9 and 17.10 of this Agreement, either Party may pursue all remedies available to it at law or in equity.

16.3 *Specific Performance and Injunctive Relief.*

Each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of, any actual or threatened breach of any material obligation of the other Party under this Agreement. The Parties in any action for specific performance or restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.

ARTICLE 17 MISCELLANEOUS

17.1 *Notices.*

Whenever this Agreement requires or permits delivery of a “**Notice**” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified herein and to the addresses set forth below; provided, however, that Notices of scheduling shall be provided in accordance with the terms set forth in the relevant section of this Agreement. Invoices may be sent by facsimile or e-mail. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a schedule for the delivery or acceptance of the Retail Products or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

If to Seller: Denton Municipal Electric
 Attention: General Manager
 1659 Spencer Rd.
 Denton, TX 76205
 Telephone: (940) 349-7565
 Fax (940) 349-7334
 E-mail Address: Antonio.Puente@CityofDenton.com

With a copy to: City Attorney
 215 E. McKinney Street
 Denton City Hall
 Denton, Texas 76201
 Telephone: (940) 349-8333
 Fax: (940) 382-7923
 Email: Caleb.Garcia@cityofdenton.com

If to Buyer: SPRE Denton TX, LLC
Attention: Houston Aderhold
2146 Roswell Road, #108-851
Marietta, GA 30062
Telephone: (770) 315-1016
Email: houston@wahatech.io

With a copy to: WAHA TECHNOLOGIES, INC.
Attention: Chris Bissell
2146 Roswell Road, #108-851
Marietta, GA 30062

17.2 *Effectiveness of Agreement; Survival.*

This Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; provided however, that this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations under this Agreement, including payment in full of all invoices (including all corrections thereof) due prior to the end of the Term, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of the Delivery Term Security, as applicable, is released and/or returned as applicable (if any is due). All indemnity rights shall survive the termination or expiration of this Agreement for the longer of twelve (12) months or the expiration of the statute of limitations period of the claim underlying the indemnity obligation. Notwithstanding any provisions herein to the contrary, the obligations set forth in Article 7, Section 12.1 and Article 15, the indemnity obligations set forth in Article 10, and the limitations on liabilities set forth herein shall survive (in full force) the expiration or termination of this Agreement.

17.3 *Exhibits.*

Buyer and Seller hereby agree to abide by the terms and conditions set forth in Exhibits C and F attached hereto as if such Exhibit was executed by each of the Parties as a standalone agreement separate from this Agreement.

17.4 *Right to Audit.*

Each Party has the right, at its sole expense, during normal working hours and upon no less than three (3) Business Days' advance notice, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from

the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party (specifically including ERCOT) and such third party corrects its information after such twelve (12)-month period.

17.5 *Amendments.*

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

17.6 *Waivers.*

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

17.7 *Severability.*

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; *provided* that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties.

17.8 *Standard of Review.*

Absent the agreement of the Parties to the proposed change, the standard of review for changes to this Agreement proposed by a Party, a Person or the Federal Energy Regulatory Commission acting sua sponte shall be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) (the “Mobile-Sierra” doctrine).

17.9 *Governing Law.*

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

THIS AGREEMENT WAS EXECUTED IN THE STATE OF TEXAS AND MUST IN ALL RESPECTS BE GOVERNED BY, INTERPRETED, CONSTRUED, AND SHALL BE

EXCLUSIVELY ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE SHALL LIE FOR ANY LAWSUIT DEALING WITH THIS AGREEMENT IN THE APPROPRIATE FEDERAL COURT IN TEXAS, OR, IF THE FEDERAL COURTS DO NOT HAVE JURISDICTION, IN THE STATE DISTRICT COURTS IN AND FOR DENTON COUNTY, TEXAS.

17.10 *Waiver of Trial by Jury.*

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

17.11 *Attorneys' Fees.*

In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

17.12 *No Third-Party Beneficiaries.*

Except as set forth in Sections 13.1 and Article 15, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

17.13 *No Agency.*

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

17.14 *Cooperation.*

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to cooperate and assist each other in making such change.

17.15 *Further Assurances.*

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 17.15.

17.16 *Captions; Construction.*

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. Any term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

17.17 *Entire Agreement.*

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

17.18 *Forward Contract.*

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

17.19 *Counterparts.*

This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURES APPEAR ON FOLLOWING PAGE]**

IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each on the date set forth above.

“SELLER”

**The City of Denton d/b/a Denton
Municipal Electric**

By: _____

Name: Sara Hensley
Title: City Manager

By _____
DME Approval

ATTEST: Lauren Thoden
CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
Mack Reinwand
CITY ATTORNEY

By: _____

“BUYER”

SPRE DENTON TX, LLC

By: _____

Name: Houston Aderhold
Title: C.T.O.

APPROVED AS TO LEGAL FORM:

By: _____
ATTORNEY

EXHIBIT A

RETAIL PRODUCTS CONTRACT PRICE

The following are all of the Index Supply amounts required to be paid or received under the Agreement, including how such costs are calculated.

1. The “**ERCOT Settlement Amounts**” means and includes the Energy Fees, the Ancillary Services Fees and the Load Ratio Share, each of which are set forth below in greater detail:

Energy Fees. Seller shall procure all Energy for the Project from the ERCOT market at the ERCOT Load Zone North. [REDACTED]

[REDACTED] pursuant to schedules for such Retail Products provided by Buyer to Seller as Project QSE. [REDACTED]

[REDACTED] In the event that ERCOT changes the designated Load Zone (as defined in the ERCOT Protocols), the Parties agree to use the most representative Load Zone of the Denton load zone as possible. Purchases of Energy quantities in the real-time market by the Project QSE will match the Energy demands of the Project for each 15-minute interval. The Energy Fees [REDACTED]

- b. Ancillary Services Fees. All fees, costs or charges (of any nature whatsoever) by ERCOT associated with or arising from or in connection with the provision of Retail Products by Seller to Buyer under this Agreement, including fees for Ancillary Services, ERCOT system administrative fees, RUC, etc. (collectively, “**Ancillary Services Fees**”)
 - c. Load Ratio Share. Any other ERCOT charges incurred by Seller as a load serving entity and QSE for the Denton load (including Project demand) that are allocable to the Project (“**Load Ratio Share**”) net of any CRR Auction Revenue Distribution amounts that are allocable to Buyer’s load. Seller will provide ERCOT statements and any calculations necessary to determine the Project’s proportional cost as compared to the total Denton demand.
2. “**Buyer Ancillary Service**” is any Ancillary Service that Buyer sells to ERCOT as a Load Resource. [REDACTED]

[REDACTED] The “**Non-ERCOT Amounts**” (These charges billed monthly) means and includes the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

g. **“Sales Tax”** includes all sales, use, excise and other similar taxes that are imposed by any taxing authority as applicable to the sale of electric power in Denton County which shall be equal to eight and 25 one hundredths percent (8.25% [6.75% state sales tax and 1.5% city sales tax]) of the sum of the ERCOT Settlement Amounts less Buyer Ancillary Service Amounts, plus the Transmission Access Fee, the QSE Fee, the Incremental TCOS Demand Charge, the ROI Fee, and the Franchise Fee for the applicable month.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

PROJECT DESCRIPTION

Current plan for [REDACTED]

[illegible]

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EXHIBIT C

ELECTRICAL TRANSMISSION AND DISTRIBUTION SWITCHING AGREEMENT BETWEEN THE CITY OF DENTON AND SPRE DENTON TX, LLC

WHEREAS, The City of Denton (the “City”) provides primary distribution voltage electric service to SPRE Denton TX, LLC (“SPRE”) at two distinct points of interconnection for SPRE facilities at the RD Wells Substation in Denton, Texas under the terms and conditions of a Power Purchase Agreement (“PPA”) to which this exhibit is attached; and

WHEREAS, SPRE operates and maintains its own internal electrical distribution facilities and system that receives electric power from the City and distributes such electric power to the SPRE facilities; and

WHEREAS the Parties recognize that coordination and communication in switching of high voltage electrical equipment and understanding the equipment, switch positions, and impact of equipment operations at all times protect City and SPRE personnel and ensures the reliability of the City’s and the ERCOT transmission system,

NOW, THEREFORE, in consideration of the foregoing recitals, premises, and representations and other terms and conditions set forth below, the Parties intending to be legally bound, hereby agree as follows:

1. Definitions; Interpretation.

Capitalized terms used in this Agreement are defined herein or in the Power Purchase Agreement (“PPA”) to which this Agreement is appended, and the rules of interpretation relating to such terms and this Agreement set forth herein. Other terms used but not defined in this Agreement shall have meanings as commonly used in the English language.

2. Term

This Electrical Transmission and Distribution Switching Agreement (“Agreement”) is effective as of the Effective Date of the PPA and shall remain in effect until the termination of the PPA.

3. Obligations of the Parties

The obligations of the Parties to this Agreement are intended to ensure electric system reliability and safety for the Parties by establishing electric transmission and distribution system switching procedures in accordance with electric industry standards and best practices.

- a. General Obligations of the City (“DME”). The City’s responsibilities and obligations are as follows; i). complete and absolute authority over the operation of the City’s

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- electrical system up and to the Delivery Points; ii) to keep SPRE informed of maintenance activities that will impact the SPRE facilities; iii) provide switching orders to SPRE required by DME and/or ERCOT
- b. General Obligations of SPRE. SPRE responsibilities and obligations are as follows: i) complete switching orders from the City; ii) to keep DME informed of electrical equipment and switches conditions and positions at all time; iii) to follow the procedures specified in this Agreement at all times; iv) to keep DME informed of maintenance activities at the SPRE facilities that have the potential to impact the distribution and transmission system of the City and ERCOT; v) to follow the switching orders of DME

4. Operating Procedures

- a. Operation of electrical Equipment. No electrical apparatus should be disturbed, or operational state changed in any way, except to save life or property, except when provided for through scheduled, urgent, or emergency switching instructions without authority from DME as set forth herein. All switching shall be performed with a DME representative onsite during switching to communicate with the DME's electrical system operational staff. The Parties understand that all DME radio communication is recorded for clarification, review and retention purposes.
- b. System Configuration. Within thirty (30) days of the Effective Date, and annually thereafter, SPRE will provide DME with electronic copies of the facilities 138KV and 15kV electric system including one-line diagrams and any future proposed system revisions. The digital files shall include at least the following information: i) Location of primary lines; ii) size of primary lines; iii) capacity rating of the primary lines; iv) location of switches; v) capacity rating of switches; vi) configuration and normal status of switches; vii) location of transformers; viii) capacity of transformers connected to the system; ix) location of capacitor banks on the system; and, x) capacity of capacitors banks on the system.
- c. Scheduled Switching. SPRE shall contact **DME's Electric System Operations ((940) 349-7644)** regarding all proposed changes to the SPRE electric system **at least 48 hours** prior to any SPRE switching that would modify the SPRE electrical system configuration which potentially could or would impact DME's electrical system. SPRE shall respond to DME switching request within 48 hours of notification. DME will follow the same request criteria as SPRE. SPRE is to request all scheduled switching a minimum of 48 hours in advance of any scheduled switching operation(s). The request shall include the following: Proposed or requested switching orders; drawings showing the switching operation (if needed by either DME or SPRE); diagrams of the switches being operated (if needed by either party); copy of the appropriate safety clearance and hold tags; purpose for the requested system configuration change; and, reason for the requested switching.

- d. **Urgent Switching.** DME will attempt to accommodate same day switching requests for SPRE for unexpected load or equipment maintenance issues if DME's system configuration and ampacities will permit. SPRE shall contact **DME's System Operations at (940) 349-7644** regarding all urgent switching operations prior to SPRE electric system configuration changes. SPRE shall send a marked up drawing of the switching arrangement to DME System Operations by email. After the switching has been successfully completed, DME's Electric GIS system will be updated to properly reflect the new system configuration.
- e. **Emergency Switching.** No electrical apparatus will be disturbed in any way, except to save life or property, or as provided for in an emergency switching instruction issued from time to time, without at least verbal authority from the DME System Operator. Emergency switching shall only occur to clear a hazard or to protect life or property. Additional or new electrical loads shall not be picked up or transferred by any emergency switching operation. SPRE shall promptly notify **DME's System Operations at (940) 349-7644** when emergency switching occurs or becomes necessary.
- f. **Operation of a Tie Switch (Future Operations).** Operation of a switch capable of connecting two different DME circuits and/or substations and/or transmission lines together shall only be performed when a DME representative is available at the switch. The DME representative will remove the DME padlock from the operator. A SPRE representative will be responsible for coordinating the switching operation with the DME system operator and operating the switch. The DME representative will padlock the operator at the tie switch once the switch is in its new position. DME will authorize make-before-break operations at the SPRE tie points and before any make-before-break switching operation is performed, the DME substation automatic reclosers shall be turned off at the affected substation(s). The DME System Operator will review the most current SCADA circuit loadings and determine if the two circuits are close enough in ABC phase balance so that the electrical load transfer can occur successfully without tripping or affecting any DME substation relays and that enough circuit and breaker ampacities exist to allow successful tying and transfer of the SPRE loads.

5. Notices

Any legal notice required by this Agreement shall be deemed given when personally delivered or mailed by certified or registered United States mail, postage prepaid, addressed as follows:

If to the City: Denton Municipal Electric
 Attention: General Manager
 1659 Spencer Rd
 Denton, TX 76205

with a copy to: City Attorney's Office
 215 E. McKinney St.

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Denton, Texas 76201

If to SPRE: SPRE DENTON TX, LLC
Attention: Houston Aderhold
2146 Roswell Road, #108-851
Marietta, GA 30062
Telephone: (770) 315-1016
Email: houston@wahatech.io

with a copy to: WAHA TECHNOLOGIES, INC.
Attention: Chris Bissell
2146 Roswell Road, #108-851
Marietta, GA 30062

Any operational notice required under this Agreement shall be deemed given when personally delivered, emailed or communicated via recorded telephonic line to:

Denton Municipal Electric
Attention: Division Manager, Energy Operations
1659 Spencer Rd.
Denton, TX 46205
Jerry.Looper@cityofdenton.com

With a copy to:

Denton Municipal Electric
Attention: Supervisor, Energy Operations
1659 Spencer Rd.
Denton, TX 46205
Jonathan.Love@cityofdenton.com
Cameron.Zahn@cityofdenton.com

6. Limitation of Liability; Indemnification.

a. DAMAGES. BOTH PARTIES SHALL BE LIABLE TO THE OTHER ONLY FOR ACTUAL AND DIRECT DAMAGES ARISING OUT OF, OR IN ANY WAY RELATED TO, THE PARTIES' PERFORMANCE, OR FAILURE TO PERFORM, UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE.

b. LIMITATION OF LIABILITY. SUBJECT TO SECTION 6(a) AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, OR TO ANY THIRD PARTY, FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF REVENUES, LOSS OF USE OF THE

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RETAILPRODUCTS OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE RETAIL PRODUCTS, FACILITIES OR SERVICE, DOWNTIME, PERSONAL PROFITS, OPERATIONAL INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTIES' PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (EXCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED OTHERWISE IN THIS AGREEMENT, ALL REMEDIES PROVIDED FOR HEREUNDER, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO TERMINATE THIS AGREEMENT, AND ALL OF THE REMEDIES PROVIDED BY LAW (AND NOT EXCLUDED PURSUANT TO THE FOREGOING SENTENCE), SHALL BE DEEMED CUMULATIVE AND NON-EXCLUSIVE.

7. Force Majeure.

Neither the City nor SPRE shall be liable for any failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; epidemics; pandemics; riots; power failures; computer failure and any such circumstances beyond its reasonable control as may cause interruption, loss or malfunction of utility, transportation, computer (hardware or software) or telephone communication service; accidents; labor disputes; acts of civil or military authority; governmental actions; or inability to obtain labor, material, equipment or transportation; provided, however, that in the event of a failure or delay, each party shall use its best efforts to mitigate the effects of any such failure or delay.

8. Miscellaneous.

This Agreement represents the entire understanding of the parties and supersedes all prior representations with the exception of the PPA to which it is appended. This Agreement may not be varied orally but must be amended by written document of subsequent date duly executed by the parties. This Agreement shall be governed by the laws of the State of Texas and venue for any action under this Agreement shall be in Denton County, Texas.

If any term or provision of this Agreement or its application, shall be declared invalid, illegal or unenforceable in any respect as written, that shall not affect any other provision of this AGREEMENT, which shall continue to be effective as though the invalid and unenforceable part, clause or invalidation had not been made, and the remainder of this AGREEMENT shall be valid and enforceable to the fullest extent allowed by law.

This AGREEMENT may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute an instrument.

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SPRE DENTON TX, LLC

Houston Aderhold, C.T.O.

Signed on the _____ day of _____, 2024.

CITY:
CITY OF DENTON,
a Texas home-rule municipal corporation

Sara Hensley, City Manager

Signed on the _____ day of _____, 2024.

ATTEST:
LAUREN THODEN, CITY SECRETARY

APPROVED AS TO FORM:
Mack Reinwand, CITY ATTORNEY

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Attachment A to Switching Agreement
SPRE DENTON TX, LLC and DME MOU

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EXHIBIT D
FORM OF LETTER OF CREDIT

[ISSUING BANK] IRREVOCABLE STANDBY LETTER OF CREDIT

DATE OF ISSUANCE:

[Date of issuance]

[BENEFICIARY] (“Beneficiary”)

[Address]

Attention: **[Contact Person]**

Re: [ISSUING BANK] Irrevocable Standby Letter of Credit No. _____

Messrs./Mesdames:

We hereby establish in favor of Beneficiary (sometimes alternatively referred to herein as “**you**”) this Irrevocable Standby Letter of Credit No. _____ (the “**Letter of Credit**”) for the account of [--- *Party A* ---] [--- *Address* ---] and [---*Party B*---, (--- *Address* ---)] (“**Account Parties**”), effective immediately and expiring on the date determined as specified in numbered paragraphs 5 and 6 below.

We have been informed that this Letter of Credit is issued pursuant to the terms of that certain [*describe the underlying agreement which requires this LC*].

1. **Stated Amount.** The maximum amount available for drawing by you under this Letter of Credit shall be [*written dollar amount*] United States Dollars (US\$[*dollar amount*]) (such maximum amount referred to as the “**Stated Amount**”).

2. **Drawings.** A drawing hereunder may be made by you on any Business Day on or prior to the date this Letter of Credit expires by delivering to [ISSUING BANK], at any time during its business hours on such Business Day, at [*bank address*] (or at such other address as may be designated by written notice delivered to you as contemplated by numbered paragraph 9 hereof), a copy of this Letter of Credit together with (i) a Draw Certificate executed by an authorized person substantially in the form of Attachment A hereto (the “**Draw Certificate**”), appropriately completed and signed by your authorized officer (signing as such) and (ii) your draft substantially in the form of Attachment B hereto (the “**Draft**”), appropriately completed and signed by your authorized officer (signed as such). Partial drawings and multiple presentations may be made under this Letter of Credit. Draw Certificates and Drafts under this Letter of Credit may be presented by Beneficiary by means of facsimile or original documents sent by overnight delivery or courier to [ISSUING BANK] at our address set forth above, Attention: _____ (or at such other address as may be designated by written notice delivered to you as contemplated by numbered paragraph 9 below). In the event of a presentation by facsimile transmission, the original of such documents need not be sent to us.

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3. **Time and Method for Payment.** We hereby agree to honor a drawing hereunder made in compliance with this Letter of Credit by transferring in immediately available funds the amount specified in the Draft delivered to us in connection with such drawing to such account at such bank in the United States as you may specify in your Draw Certificate. If the Draw Certificate is presented to us at such address by 12:00 noon, [] time on any Business Day, payment will be made not later than our close of business on third succeeding business day and if such Draw Certificate is so presented to us after 12:00 noon, [] time on any Business Day, payment will be made on the fourth succeeding Business Day. In clarification, we agree to honor the Draw Certificate as specified in the preceding sentences, without regard to the truth or falsity of the assertions made therein.
4. **Non-Conforming Demands.** If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you prompt notice that the demand for payment was not effectuated in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefor and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effectuated in conformity with this Letter of Credit, you may correct any such non-conforming demand.
5. **Expiration.** This Letter of Credit shall automatically expire at the close of business on the date on which we receive a Cancellation Certificate in the form of Attachment C hereto executed by your authorized officer and sent along with the original of this Letter of Credit and all amendments (if any).
6. **Initial Period and Automatic Rollover.** The initial period of this Letter of Credit shall terminate on [*one year from the issuance date*] (the “**Initial Expiration Date**”). The Letter of Credit shall be automatically extended without amendment for one (1) year periods from the Initial Expiration Date or any future expiration date, unless at least sixty (60) days prior to any such expiration date we send you notice by registered mail or courier at your address first shown (or such other address as may be designated by you as contemplated by numbered paragraph 9) that we elect not to consider this Letter of Credit extended for any such additional one year period.
7. **Business Day.** As used herein, “**Business Day**” shall mean any day on which commercial banks are not authorized or required to close in the State of [Texas], and inter-bank payments can be effected on the Fedwire system.
8. **Governing Law.** THIS LETTER OF CREDIT IS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.
9. **Notices.** All communications to you in respect of this Letter of Credit shall be in writing and shall be delivered to the address first shown for you above or such other address as may from time to time be designated by you in a written notice to us. All documents to be presented to us hereunder and all other communications to us in respect of this Letter of Credit, which other communications shall be in writing, shall be delivered to the address for us indicated above, or such other address as may from time to time be designated by us in a written notice to you.
10. **Irrevocability.** This Letter of Credit is irrevocable.
11. **Complete Agreement.** This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein.

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*

*

*

SINCERELY,
[ISSUING BANK]

By: _____

Title: _____

Address:

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ATTACHMENT A

FORM OF DRAW CERTIFICATE

The undersigned hereby certifies to [ISSUING BANK] (“**Issuer**”), with reference to Irrevocable Letter of Credit No. _____ (the “**Letter of Credit**”) issued by Issuer in favor of the undersigned (“**Beneficiary**”), as follows:

- (1) The undersigned is the _____ of Beneficiary and is duly authorized by Beneficiary to execute and deliver this Certificate on behalf of Beneficiary.
- (2) Beneficiary hereby makes demand against the Letter of Credit by Beneficiary’s presentation of the draft accompanying this Certificate, for payment of _____ U.S. dollars (US\$ _____), which amount, when aggregated together with any additional amount that has not been drawn under the Letter of Credit, is not in excess of the Stated Amount (as in effect of the date hereof).
- (3) The conditions for a drawing by Beneficiary pursuant to [*describe the draw conditions from the underlying agreement*].
- (4) You are hereby directed to make payment of the requested drawing to: (insert wire instructions)

Beneficiary Name and Address:

By: _____

Title: _____

Date: _____

- (5) Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Letter of Credit.

[BENEFICIARY]

By: _____

Title: _____

Date: _____

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ATTACHMENT B

DRAWING UNDER IRREVOCABLE LETTER OF CREDIT NO.

Date:

PAY TO: [BENEFICIARY]

U.S.\$ _____

FOR VALUE RECEIVED AND CHARGE TO THE ACCOUNT OF LETTER OF CREDIT NO.
_____.

[BENEFICIARY]

By: _____

Title: _____

Date: _____

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ATTACHMENT C

CANCELLATION CERTIFICATE

Irrevocable Letter of Credit No. _____

The undersigned, being authorized by the undersigned (“**Beneficiary**”), hereby certifies on behalf of Beneficiary to [ISSUING BANK] (“**Issuer**”), with reference to Irrevocable Letter of Credit No. _____ issued by Issuer to Beneficiary (the “**Letter of Credit**”), that all obligations of the Account Parties, under the [*describe the underlying agreement which requires this LC*] have been fulfilled.

Pursuant to Section 5 thereof, the Letter of Credit shall expire upon Issuer’s receipt of this certificate.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Letter of Credit.

[*BENEFICIARY*]

By: _____

Title: _____

Date: _____

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EXHIBIT E

INSURANCE REQUIREMENTS

Before the Commercial Operation Date of Phase I, Buyer shall procure and maintain the following insurance, with insurers rated “A-” VII or higher by A.M. Best’s Key Rating Guide, that are licensed to do business in Texas:

- (a) Workers’ Compensation Insurance for statutory obligations imposed by Applicable Laws, including, where applicable, the Alternate Employer Endorsement, the United States Longshoremen’s and Harbor Workers’ Act, the Maritime Coverage and the Jones Act;
- (b) Employers’ Liability Insurance, including Occupational Disease, shall be provided with a limit of (i) One Million Dollars (\$1,000,000) for bodily injury per accident, (ii) One Million Dollars (\$1,000,000) for bodily injury by disease per policy, and (iii) One Million Dollars (\$1,000,000) for bodily injury by disease per employee;
- (c) Business Automobile Liability Insurance which shall apply to all owned, non-owned, leased, and hired automobiles with a limit of One Million Dollars (\$1,000,000) per accident for bodily injury and property damage;
- (d) General Liability Insurance which shall apply to liability arising out of premises, operations, bodily injury, property damage, Retail Products and completed operations and liability insured under and insured contract (contractual liability), with a limit of One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate. The Retail Products and completed operations coverage insurance shall be provided for the duration of any applicable warranty period;
- (e) Excess Liability Insurance which shall apply to Employers Liability, Commercial General Liability and Business Automobile Liability Insurance, required in (b), (c), and (d) above, with a limit of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) aggregate;
- (f) Broad Form Property Insurance covering Buyer’s Project.

Except for Workers’ Compensation Insurance and Property Insurance, to the extent of the limits required above, Buyer shall be endorsed as an additional insured on Buyer’s insurance policies required to be maintained under the Agreement and such policies shall provide for a waiver of subrogation in favor of Buyer. All policies of insurance required to be maintained by Buyer hereunder shall provide for a severability of interests clause and include a provision that Buyer’s insurance policies are to be primary and non-contributory to any insurance that may be maintained by or on behalf of Buyer.

E-1

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

In the event that any policy furnished by Buyer provides for coverage on a “claims made” basis, the retroactive date of the policy shall be the same as the Effective Date of the Agreement, or such other date, as to protect the interest of Buyer. Furthermore, for all policies furnished on a “claims made” basis, Buyer’s providing of such coverage shall survive the termination of the Agreement and the expiration of any applicable warranty period, until the expiration of the maximum statutory period of limitations in the State of Texas for actions based in contract or in tort. If coverage is on “occurrence” basis, Buyer shall maintain such insurance during the entire term of the Agreement.

Buyer shall promptly provide evidence of the insurance coverage required under the Agreement in the form of an ACORD certificate or other certificate of insurance. If any of the required insurance is cancelled or non-renewed, Buyer shall within thirty (30) days provide written notice to Seller and file a new certificate of insurance with Seller, demonstrating that the required insurance coverage to be maintained hereunder has been extended or replaced. Neither Buyer’s failure to provide evidence of minimum coverage of insurance following Seller’s request, nor Seller’s decision to not make such request, shall release Buyer from its obligation to maintain the minimum coverage provided for in this Exhibit E.

Buyer shall be responsible for covering all deductibles associated with the foregoing insurance coverage.

E-2

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

Exhibit F

Qualified Scheduling Entity Services

The agreed QSE services Seller will provide to Buyer in Seller's capacity as Project QSE under the Agreement include (collectively, the "**QSE Services**") the below services.

- (a) Schedule with ERCOT, at the direction of Buyer, Retail Products and Buyer Ancillary Services consistent with the ERCOT Protocols for a Load Resource.
- (b) Assist Buyer in registering the Seller's Interconnection Facilities as a Load Resource with ERCOT.
- (c) Register a sub-QSE with ERCOT for the Seller's Interconnection Facilities and the Project.
- (d) Perform all ERCOT settlements on behalf of Buyer.
- (e) Process ERCOT invoices as specified in Section 0 of the Agreement.

The associated terms and conditions with such QSE Services are set forth below:

- 1.1 **Day-Ahead Requirements.** Buyer shall provide Seller all bids, offers, schedules, and/or other such information relevant to or required by the governing rules, pertaining to any Retail Products and Buyer Ancillary Services relating to Buyer's Project, to be included for submission to ERCOT to satisfy all relevant data and information required for participation in the day-ahead market (to the extent such is required by or applicable to the ERCOT Protocols) and/or to satisfy the obligation to submit data and information to ERCOT for day-ahead operations (collectively, "**Day-Ahead Schedules**"). Such Day-Ahead Schedules shall be provided to Seller in those time increments, quantities, duration, and terms required by the governing rules, for Buyer's Project in accordance with this Agreement and in compliance with the governing rules; each component of Buyer's Day-Ahead Schedules (collectively and individually) shall satisfy the requirements of the governing rules when provided to Seller. If Buyer's Day-Ahead Schedules conflict with the requirements of the governing rules, Seller shall promptly notify Buyer and shall coordinate with Buyer to modify Buyer's Day-Ahead Schedules. If such Day-Ahead Schedules cannot be modified then Seller shall have the right to reject Buyer's Day-Ahead Schedules. Buyer shall provide or make available to Seller all such Day-Ahead Schedules using the format, software, and communication format and specifications, and other technical criteria mutually agreed between the Parties. Buyer shall provide Seller the Day-Ahead Schedules at least one (1) hour prior to any applicable deadline specified under the governing rules; however, nothing herein shall be construed as restricting Buyer from providing updated Day-Ahead Schedules to Seller at any time.

F-1

This document and any attachments or exhibits thereto may contain information that is confidential, commercially-sensitive, proprietary, and/or public power utility competitive and financial information in accordance with the provisions of Texas Government Code, Section 552.101, 552.104, 552.110 and/or 552.133, and may be protected from required public disclosure.

- 1.2 Adjustment Period Requirements. Buyer shall provide Seller all bids, offers, schedules, and/or other such information relevant to or required by the governing rules, pertaining to any Retail Products and Buyer Ancillary Services relating to Buyer's Project, to be included for submission to ERCOT (or to update existing information with ERCOT) to satisfy all relevant data and information required for participation in any applicable adjustment period market or service and/or to satisfy the obligation to submit, update, and/or maintain data and information to ERCOT for the adjustment period (collectively, "**Adjustment Period Schedules**"). Such Adjustment Period Schedules shall be provided to Seller in those time increments, quantities, duration, and terms required by the governing rules, for Buyer's Project, in accordance with this Agreement and in compliance with the governing rules; each component of Buyer's Adjustment Period Schedules (collectively and individually) shall satisfy the requirements of the governing rules when provided to Seller. If Buyer's Adjustment Period Schedules conflict with the requirements of the governing rules, Seller shall promptly notify Buyer and shall coordinate with Buyer to modify Buyer's Adjustment Period Schedules. If such Adjustment Period Schedules cannot be modified then Seller shall have the right to reject Buyer's Adjustment Period Schedules to remedy any conflict therewith. Buyer shall provide or make available to Seller all such Adjustment Period Schedules using the format, software and communication format and specifications, and other technical criteria mutually agreed between the Parties. Buyer shall provide Seller the Adjustment Period Schedules at least one (1) hour prior to the earlier of (i) any applicable deadline specified by the governing rules. Nothing herein shall be construed as restricting Buyer from providing updated Adjustment Period Schedules to Seller at any time, and Seller shall implement such schedules as soon as reasonably practicable.
- 1.3 Schedule Changes. Subject to Sections 1.1 and 1.2 herein, Buyer may change information provided to Seller as part of its schedules as allowable under the governing rules. Seller will use Commercially Reasonable Efforts to implement any such change as soon as reasonably practicable. Notices shall be made to Seller by telephone and followed up by written communication via email or through other mutually agreed electronic communication. In the event that any schedule or schedule change provided to Seller differs from a prior schedule for the same time period, such subsequent schedule shall supersede the prior schedule, and Seller will rely upon and implement the most recent schedule when submitting such to ERCOT for Buyer and any additional costs or fees arising from or attributable to such a schedule change shall be Buyer's responsibility.
- 1.4 Scheduling Validation. Seller will use Commercially Reasonable Efforts to schedule Buyer's obligations on Buyer's behalf pursuant to Buyer's schedules; *provided, however*, if Buyer's schedules fail to meet with the validation requirements of ERCOT, Seller shall promptly notify Buyer and shall coordinate with Buyer to modify Buyer's schedules. If such schedules cannot be modified then Seller may rescind any component of Buyer's schedule(s) to the extent such schedules fail to meet any validation requirement of ERCOT. In addition, Seller shall not be required to employ extraordinary means or to incur hardship

or loss to schedule a modified transaction for Buyer. For the avoidance of doubt, in no event shall Seller be required to schedule any of Buyer's schedules to the extent such Buyer's schedule instructs Seller to sell volumes of Buyer Ancillary Services in excess of the Project's Capacity.

- 1.5 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary: (i) Buyer shall indemnify and hold Seller harmless from and against any and all damages, costs, liabilities and expenses arising from or in connection with Seller's provision of QSE Services hereunder except to the extent that such amounts are the result of Seller's gross negligence or willful misconduct and (ii) the total aggregate liability of Seller under this Exhibit I or otherwise resulting from the provision of QSE Services shall not in any event exceed actual direct damages.

EXHIBIT G

OPERATING PROCEDURES CRITERIA

The Operating Procedures for the Project to be agreed upon by Buyer and Seller pursuant to Sections 3.11, 3.12 and accounting procedures to facilitate optimization of daily payments and settlement pursuant to Article 7 shall address, among others, the following:

- I. Buyer Curtailment Orders**
- II. Outage Notification**
- III. Day-Ahead Availability Notice**
- IV. Settlement and Billing procedures and escrow accounts**
- V. Contact Information**

EXHIBIT H – RENEWABLE ENERGY CREDITS

(a) Because Seller has adopted the DRRP, which requires all Energy purchased by Seller for resale at retail to be renewable Energy, Seller is required to retire one REC for every MWh of Energy sold to Buyer.

(b) Seller shall procure the RECs corresponding to Buyer's load, deposit the RECs into Seller's ERCOT REC account, and retire the RECs in accordance with ERCOT protocols. At Buyer's request, Seller shall procure RECs from a Buyer-designated third-party participant in the REC market; provided, however, that Seller must already be fully enabled to transact with any such third-party. Buyer shall be responsible for REC Costs, in accordance with Exhibit A to this PPA.

Exhibit B
Equity Investor Letter
Agreement

July 30, 2024

Sent Via Email, DocuSign, and Certified Mail to:

SPRE Denton TX, LLC
Houston Aderhold
houston@wahatech.io
2146 Roswell Rd. Ste 108-851
Marietta, GA 30062

Re: Letter Agreement re: Equity Investors

To Whom it May Concern:

This letter agreement serves to memorialize the discussions between City of Denton (“**City**”) and SPRE Denton TX, LLC (“**SPRE**”) regarding the equity investors in the high efficiency computing center project that is being considered by the City Council in the coming months (such project the “**Project**” and this agreement the “**Letter Agreement**”). This Letter Agreement will become a part of the Power Purchase Agreement and Lease Agreement once such agreements are executed.

By executing this Letter Agreement, SPRE affirms that a majority of equity investors are not from China, North Korea, Iran, Russia, or any other country that is currently designated by the Governor of the State of Texas as a threat to critical infrastructure under Government Code Section 2275.0103.

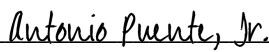
SPRE also affirms that no equity investor is subject to sanctions or lists of prohibited transaction parties in the State of Texas, the United States, or applicable international regulations.

SPRE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS CITY FOR ANY DAMAGES RELATED TO ANY EQUITY INVESTOR THAT DOES NOT MEET THE REQUIREMENTS SET FORTH ABOVE.

ANY BREACH OF THIS LETTER AGREEMENT IS CONSIDERED A MATERIAL BREACH OF THE POWER PURCHASE AGREEMENT AND LEASE AGREEMENT TO BE ENTERED INTO BY CITY AND SPRE.

SPRE has an affirmative obligation to continually review their equity investors to determine if there are any changes to the representations made in this Letter Agreement and must provide updates to City immediately with respect to any changes.

Best regards,

DocuSigned by:

E3760944C2BF4B5...

Antonio Puente, DME General Manager

OUR CORE VALUES

Integrity • Fiscal Responsibility • Transparency • Outstanding Customer Service



Denton Municipal Electric

1659 Spencer Rd., Denton TX 76205 (940)-349-7565

Acknowledgement of Receipt:

SPRE hereby acknowledges receipt of this Letter Agreement. SPRE agrees that the method of delivery of this letter is acceptable and waives any requirement to provide notice to SPRE by any other another method. SPRE also acknowledges that they have sufficient authority to enter into this Letter Agreement with the City.

SPRE Denton TX, LLC

DocuSigned by:

Houston Aderhold

Houston Aderhold, Manager



WAHA Data Center Lease and PPA

Bill Shepherd

Executive Manager Business Svcs – DME

Aug 6, 2024

ID 24-1382 and ID 24-1383

Summary

- DME was being approached by several crypto mining prospects
- DME issued an RFP for the lease of city property and available distribution capacity located at RD Wells Substation in the Airport Industrial Park
- Negotiating Lease and PPA language with top runner for the last 12 months
- Next steps would be to finalize and get authorization for Lease and PPA along with development review process

Project Location



Modular Data Center

- 20 MW High Speed Computing (Bitcoin)
- Very small footprint behind RD Wells in Airport Industrial Park
- Will adhere to Denton Development Code for Noise and Vibration for Modular Data Centers.
 - $\leq 60\text{db}$ or no more than 3db above ambient

Layout



Direct Benefits to City of Denton

- Aligned with Denton's Economic Development Strategic Plan.
 - 2A.2: Attract New Investment.
 - 2C.2.1: Identify business that are high electricity users.
- Estimated Net Income to DME \$2.8 Mil over first 5 years
 - Assumes October 1st 2024 start date
- Estimated Revenue to the City in ROI and Franchise Fees \$5.4 Mil over first 5 years

Major Terms and Conditions

- 10-Year Lease and PPA
- 10-Year Renewal Term (Option)
- Lease rate
 - \$20,160 / Year
 - Market base rate
 - CPI escalator upon renewal
- Expected revenue stream from PPA will be fully collateralized and a prepay account will be established to eliminate risk to DME



Recommendation

Staff recommends awarding the bid to WAHA Inc. and adoption and approval of Ordinances authorizing execution of the PPA and Lease with SPRE Denton TX, LLC.



Questions

**Bill Shepherd – Executive Manager of
Business Services**

Denton Municipal Electric





City of Denton

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

Legislation Text

File #: ID 24-1383, **Version:** 1

AGENDA CAPTION

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a lease with SPRE Denton TX, LLC for approximately 4 acres of City-owned property located in the City and County of Denton, Texas; and providing an effective date. The Public Utilities Board recommends approval (6-0).



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: August 6, 2024

SUBJECT

Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a lease with SPRE Denton TX, LLC for approximately 4 acres of City-owned property located in the City and County of Denton, Texas; and providing an effective date. The Public Utilities Board recommends approval (6-0).

INFORMATION/BACKGROUND

In 2022, DME was being approached by many different Crypto Mining operations interested in coming to Denton. They all had the same preference to lease City owned land adjacent to a substation. In order to more fairly select a recipient, DME issued an RFP for available capacity and land located next to the RD Wells Substation. DME received several bids and started negotiations with the most favorable one for the City.

If given the approval to move forward, WAHA Inc, would be the Data Center provider selected. They will be installing a 20-megawatt modular data center on approximately 4 acres of RD Wells Substation property located in the Airport Industrial park.

Staff and WAHA have successfully negotiated Lease and PPA language and are now bringing them to the City Council for approval. WAHA created a new LLC, SPRE Denton TX, LLC for the purpose of this project. Next steps will be to complete the development review process and begin construction with anticipated commercial operation date in early Fall.

RECOMMENDATION

Staff recommends adoption of the Ordinance giving the City Manager the authority to execute the Lease Agreement.

PRIOR ACTION/REVIEW

On July 22, 2024, the Public Utilities Board received a presentation and recommended that the City Council adopt the lease agreement.

EXHIBITS

Exhibit 1: Agenda Information Sheet

Exhibit 2: Ordinance

Respectfully submitted:
Bill Shepherd
Executive Manager of Business Services

ORDINANCE NO. 24-1383

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE WITH SPRE DENTON TX, LLC FOR APPROXIMATELY 4 ACRES OF CITY-OWNED PROPERTY LOCATED IN THE CITY AND COUNTY OF DENTON, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton ("City") owns the RD Wells Sub Station (SUB) and property around it located in Denton, TX and owns certain real property at and around the SUB (the "SUB Property");

WHEREAS, SPRE Denton TX, LLC ("Lessee"), a provider of high efficiency computing centers, wishes to enter into a lease with the City, pursuant to that certain Lease Agreement attached hereto as Exhibit A and made a part hereof for all purposes (the "Lease"), for certain real property located at the SUB Property consisting of one tract, being approximately 4 acres in the City of Denton, Denton County, Texas (the "Leased Premises");

WHEREAS, Lessee further wishes to develop a high efficiency computing center on the Leased Premises and to enter into a Power Purchase Agreement for the purchase by Lessee from City of electric power in support thereof (the "PPA");

WHEREAS, the City Council finds it is in the public interest to enter into the Lease; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are incorporated herein by reference as true and as if fully set forth in the body of this Ordinance.

SECTION 2. The City Manager, or designee, is hereby authorized to execute the Lease attached hereto as Exhibit A and made a part hereof for all purposes.

SECTION 3. The City Manager, or designee, is hereby further authorized to take any other actions that may be necessary, appropriate or convenient to exercise the City's rights and to perform the City's obligations under the Lease including, but not limited to, amending the Lease to extend the term of the Lease for up to ten (10) additional years beyond the initial term in accordance with the provisions of the Lease and contemporaneously and consistent with any extension(s) of the PPA.

SECTION 4. This Ordinance shall become effective immediately upon its passage and approval.

[Signatures to appear on the following page.]

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:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Benjamin N. Samples, II

EXHIBIT A
(Lease)

LEASE AGREEMENT

between

CITY OF DENTON

and

SPRE DENTON TX, LLC

dated as of

August 1, 2024

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LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Agreement”) effective as of this 1st day of August, 2024, by and between the CITY OF DENTON, a Texas home-rule municipal corporation (“City”), and SPRE DENTON TX, LLC, a Texas limited liability company (“Lessee” and, together with City, the “Parties” and each a “Party”).

RECITALS

WHEREAS, City is the owner of the property described in **Exhibit A** located in Denton, Texas (the “Property”);

WHEREAS, Lessee is a company specializing in high efficiency computing centers;

WHEREAS, City has the right, title and interest in and to the real property located in and around RD Wells Sub Station depicted on **Exhibit A**, together with the facilities, rights, and privileges hereinafter granted, (collectively referred to herein as the “Leased Property”) and has full power and authority to enter into this Agreement in respect thereof;

WHEREAS, in and around Lease Property, City owns that certain real property described and depicted on **Exhibit A**, attached hereto and made part hereof, consisting of a single site referred to on Exhibit A as Site One, that together total approximately 4 acres more or less (such real property, together with all rights, privileges, easements (temporary and permanent), and appurtenances benefiting or encumbering such real property and all preexisting improvements, as hereafter defined, are collectively referred to herein as the “Leased Property”);

WHEREAS, Lessee plans to develop a high efficiency computing center project on the Leased Property, subject to the terms set forth herein (the “Project”);

WHEREAS, City desires to develop and permit uses of the Leased Property that are beneficial to the City and the general public;

WHEREAS, City has determined that the Project on the Leased Property will be beneficial to the City and serve a public purpose providing for additional electric sales and associated ROI and Franchise Fees to the City; and

WHEREAS, Lessee is qualified, willing and able to undertake such commercial development and use, and the City is willing to lease the Leased Property to Lessee for such activities;

WHEREAS, on or about the effective date of this Agreement, City and Lessee have entered into or will enter into a Power Purchase Agreement for the purchase by Lessee from City of electric power to support the Project to be located on the Leased Property (the “PPA”); and

WHEREAS, the Parties hereto wish to memorialize their agreement with respect to the Leased Property herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference are hereby incorporated into this Agreement, and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the Parties hereto agree as follows:

ARTICLE I LEASE OF LEASED PROPERTY; TERM

Section 1.1 Lease of Leased Property.

A. City hereby leases to Lessee, and Lessee hereby rents from City for its exclusive use the Leased Property and any preexisting improvements (as defined herein), and all herein described rights incident thereto, for and during the Lease Term (hereafter defined) and upon and subject to the terms, provisions and conditions herein set forth. All improvements preexisting in, on or under the Leased Property as of the Commencement Date, as hereafter defined, shall be referred to herein as “Preexisting Improvements”. The “Leased Property” shall be deemed to include the Preexisting Improvements and the Interconnection Improvements-, as hereafter defined.

Section 1.2 Lease Term. The term of this Agreement shall be for an initial term commencing on August 1, 2024 (the “Commencement Date”) and continuing until the end of the tenth (10th) “Contract Year” as defined below (the “Initial Term”), unless sooner terminated pursuant to the provisions of this Agreement or the PPA. “Contract Year” means a calendar year period, with the first (1st) Contract Year commencing on January 1 of the calendar year following the Commercial Operation Date of Phase I of the Seller’s Interconnection Facilities (as such terms are defined in the PPA) and the second (2nd) and each subsequent Contract Year commencing sequentially on each January 1 thereafter. Upon mutual consent of the Parties and approval by the Denton City Council, the Initial Term may be extended contemporaneously with any extensions of the PPA and consistent with the terms of the PPA for up to ten (10) additional years, the “Extension Term” (collectively, the Initial Term and the Extension Term are referred to herein as the “Lease Term”). However, the foregoing shall not preclude the Parties from entering into a new lease to be effective after the expiration of the Lease Term. If the PPA is terminated for any reason, this Agreement shall also automatically terminate, and City and Lessee shall have no further obligations or liabilities hereunder except as otherwise stated herein. Except as provided in Section 9.8, if during the Lease Term electric retail products are unable to be provided to the Leased Property, Lessee may terminate this Agreement by providing City with at least thirty (30) days’ prior written notice of such termination.

Section 1.3 Holding Over; Rights at Expiration.

A. If Lessee retains all or any portion of the Leased Property after the expiration or termination of the Lease Term by lapse of time or otherwise, such holding over shall constitute the creation of a month-to-month tenancy with respect to such retained portion, terminable by City at any time upon thirty (30) days prior written notice to Lessee. Under such month-to-month tenancy, all provisions of this Agreement shall remain in full force and effect during such holdover period except that monthly Rent (as hereafter defined) shall be equal to one hundred fifty percent (150%) of the monthly Rent that was in effect immediately prior to the expiration or termination.

B. Lessee further agrees that, upon the expiration or termination of the Lease Term, the Leased Property will be delivered to City in good working order and condition, reasonable wear and tear and matters covered by insurance excepted, and the Improvements, as hereafter defined, will be delivered to City in as good a condition as when such Improvements were constructed, located, installed, placed or erected in, upon or under the Leased Property, reasonable wear and tear and matters covered by insurance excepted.

C. Except as otherwise expressly set forth elsewhere herein, Lessee shall have no rights with respect to any improvements made to the Leased Property during the Lease Term that are not otherwise required to be removed by City.

Section 1.4 Inspection of Leased Property; Access to Books and Records. City, through its duly authorized agents, shall have at any reasonable time the right to enter the Leased Property and the Improvements, as hereafter defined in Section 3.2.A., for the purpose of periodic inspection for fire protection, maintenance and to investigate compliance with the terms of this Agreement; provided, however, that except in the case of emergency, Lessee shall have no less than forty-eight (48) hours' notice and an opportunity to have an employee or agent present. City agrees that any entry pursuant to this Section 1.4 will not unreasonably interfere with Lessee's construction or operations. Lessee agrees to provide any documents that may be reasonably requested by City to determine compliance with this Agreement within thirty (30) days of such request.

Section 1.5 Ownership of Leased Property. City and Lessee intend and hereby agree that the Leased Property shall be and remain the property of City during the entire term of this Agreement and thereafter.

ARTICLE II

RENTAL

Section 2.1 Rent.

A. In consideration for the use of the Leased Property herein granted, Lessee shall pay to City the following rental amounts (the "Rent"). The monthly rent shall be in the sum of ONE THOUSAND SIX HUNDRED EIGHTY AND NO/100 DOLLARS (\$1680.00) per month (sales tax included). On or prior to the Commencement Date, Lessee shall pay City a sum equal to the first month's Rent, which shall be applied to the first month's Rent due under this Agreement. All other Rent payments will be due in advance on or before the first day of the month to which the Rent payment relates. Failure to receive an invoice reflecting Rent in a timely manner does not absolve Lessee from its obligation to pay the monthly Rent on or before the first day of the month to which the Rent payment relates. If the Commencement Date or a termination date occurs on a day other than the first day of a calendar month, Rent for the first and last partial months will be prorated on the basis of the number of actual days in such month.

B. The Rent for the Leased Property shall be increased, but not decreased, at the end of the fifth year of the initial Lease Term, the first adjustment occurring on the first day of the sixth (6th) year of the initial Lease Term. If the Lease is extended pursuant to Section 1.2, the Rent for

the Lease Property shall be increased, but not decreased, with the first adjustment occurring on the first day of the month of any such Lease Term extensions. Adjustments to the rent shall be on the basis of the proportion that the then current and available month United States Consumer Price Index for all urban consumers (“CPI-U”) for the Dallas-Fort Worth Bureau of Labor Statistics bears to the January 2024 index.

Section 2.2 Time and Place of Payments. The Rent, shall be payable by wire transfer monthly.

Section 2.3 Delinquent Rent. In the event Rent due pursuant to Section 2.1 or any other amounts payable by Lessee hereunder shall not be paid by Lessee on or before thirty (30) days after the due date thereof (the “Grace Period”), Lessee shall pay to City as additional Rent, an interest charge equal to the lower of (i) the annual rate equal to the Prime Rate (as defined herein) then in effect plus two percent (2%) and (ii) the maximum percentage allowed by law, multiplied by the amount due for each full calendar month of delinquency, computed as simple interest. Interest shall be computed and assessed from the due date. The “Prime Rate” means the interest rate (sometimes referred to as the “base rate”) for large commercial loans to creditworthy entities announced from time to time by Citibank, N.A. (New York), or its successor bank, or, if such rate is not announced, the rate published in The Wall Street Journal as the “Prime Rate” from time to time (or, if more than one rate is published, the arithmetic average of such rates), in either case determined as of the date the obligation to pay interest arises.

ARTICLE III

OCCUPANCY, USE AND CONDITIONS OF LEASED PROPERTY

Section 3.1 Condition of Leased Property. Lessee accepts the Leased Property in its present “as is” condition. **LESSEE RELEASES CITY AND HOLDS CITY AND CITY’S OFFICERS, DIRECTORS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AND AGENTS HARMLESS FOR ANY CLAIMS ARISING OUT OF OR RELATED TO ANY CONDITION OF THE LEASED PROPERTY.**

Section 3.2 Project Construction and Ownership of Improvements.

A. The Parties agree that this Agreement is entered into specifically with the understanding that Lessee will build, construct, and complete the Project at its own expense in accordance with the requirements of the Denton Development Code and Denton Municipal Electric’s (DME)’s specifications unless this Agreement is sooner terminated pursuant to the terms herein. Any and all buildings, structures, fixtures, appurtenances, site work, site utilities, or other improvements to be located or constructed on the Leased Property by Lessee during the Lease Term shall be known as “Improvements”. Improvements shall not include any Preexisting Improvements, Lessee Personal Property or Interconnection Improvements, as hereafter defined. Those improvements made by City or Lessee to enable the delivery of electric energy from City to the equipment of Lessee will be referred to herein as the “Interconnection Improvements”. “Lessee Personal Property” shall mean any structures including electrical equipment beyond the Seller’s side of the Delivery Point (as defined in PPA) (e.g., transformers and circuit breakers), from which the Project business will be conducted that are placed on the Leased Property by Lessee

during the Lease Term that can be disassembled and removed from the Leased Property without causing material damage unable to be reasonably repaired, such repairs to be at the sole cost to Lessee, to the Leased Premises. Lessee Personal Property will not be considered part of the Leased Premises. Lessee agrees to commence construction of the Project upon obtaining necessary governmental approvals and permits after the Commencement Date and to complete the Project in accordance with all governmental requirements and specifications and to obtain a Certificate of Occupancy, and/or such other evidence of completion as may be applicable, as soon as practicable after the Commencement Date. Lessee shall not construct, locate, install, place or erect any improvements, other than the Improvements and Interconnection Improvements, at, upon or under the Leased Property without the express prior written consent of City, which consent shall not be unreasonably withheld or delayed.

B. Lessee will own, operate, and maintain the Interconnection Improvements from the Primary Meter(s) during the Lease Term. The Primary Meter(s) shall be the point of interconnection of the DME's R.D. Wells substation to the Project. Effective upon the expiration or termination of this Agreement, the Interconnection Improvements from the Primary Meter(s) shall be removed by Lessee without material damage to the Leased Property by the date of expiration or termination of this Agreement. The Lessee Personal Property and any other personal property of Lessee that can be removed by Lessee without material damage to the Leased Property or to the Improvements, Preexisting Improvements or Interconnection Improvements may remain the personal property of Lessee and may be removed by Lessee at any time on or before the end of the Lease Term. In connection with the expiration or termination of this Agreement, City reserves the right to require Lessee to remove the Lessee Personal Property from the Leased Property by the date of expiration or termination of this Agreement. If so required, Lessee shall remove the Lessee Personal Property from the Leased Property by the date of expiration or termination of this Agreement. Lessee shall, in removing any such Lessee Personal Property or other personal property, repair all damage to the Leased Property, Improvements, Preexisting Improvements, and Interconnection Improvements caused by such removal. Any Lessee Personal Property or any other property, of any kind or type, left or remaining on the Leased Property at the expiration or termination of this Agreement shall be deemed abandoned property and, without liability of any kind to City and without payment of consideration of any kind to Lessee, at City's option may be removed, retained, stored, destroyed, or disposed of by City or its contractors, all at Lessee's expense. Lessee shall remove from property any and all hazardous or environmentally sensitive materials that are located upon or may accumulate or otherwise be placed on the Property ("Hazardous Material") and dispose of same in accordance with all applicable statutes, regulations, rules, orders, and ordinances. It is expressly stipulated that Hazardous Material shall be deemed at all times the property of Lessee; and City may remove, retain, store (at Lessee's expense), destroy, or dispose of any personal property and any other property, of any kind or type, left or remaining on the Property at the termination of the Lease, without liability of any kind to the City. Preexisting Improvements are and shall continue to be owned by City. The rights and obligations provided in this Section 3.2.B shall survive any expiration or termination of this Agreement.

Section 3.3 Access; Staging Areas. City agrees that if Lessee is not in breach of this Agreement beyond any applicable notice and cure period, Lessee and Lessee's employees, officers, directors, sublessees (that are approved by City pursuant to this Agreement), Project employees, contractors, subcontractors, suppliers, agents, invitees, and other representatives ("Lessee's Associates") are authorized to enter, exit and transit across the existing roads in the

non-controlled access areas of the Property on a non-exclusive basis for purposes of ingress and egress to the extent reasonably necessary in connection with Lessee's construction of the Project authorized by City, Lessee's construction of the Interconnection Improvements, and for Lessee's use, occupancy, and operations at the Leased Property. If one or more of the unimproved existing roads in the non-controlled access areas of the Property require improvement or modification, if approved in writing in advance by City, Lessee may undertake such road improvement or modification at Lessee's expense. If in connection with any construction authorized hereunder, Lessee wishes (i) to use or access the City's utility poles for purposes of attaching any telecommunications lines or cables, Lessee may do so only with City's prior approval pursuant to a written Pole Attachment Agreement signed by the Parties, or (ii) to temporarily stage any construction materials or equipment, Lessee may do so only at those locations in the non-controlled access areas of the Property authorized by City in writing and only in the manner, and for the duration, permitted by City. Lessee shall, at its expense, in connection with any of the activities described in this Section 3.3 or elsewhere in this Agreement, repair or restore any and all damage to the Property, Leased Property, Improvements, Preexisting Improvements, and Interconnection Improvements caused by or resulting from the acts or omissions of Lessee or any of Lessee's Associates. Lessee and Lessee's Associates agree to comply with the reasonable security and safety policies, procedures and practices of the City at all times.

Section 3.4 Use of Leased Property and Compliance with all Laws and Regulations. Lessee agrees that it shall use the Leased Property and the Improvements only for its reasonable business purposes authorized by City from time to time in its sole discretion, which City-authorized business purposes include the construction and operation of Project facilities. Lessee and Lessee's Associates shall comply at all times, at Lessee's sole cost, with any and all laws and regulations (as amended or otherwise modified from time to time) that are applicable to Lessee's business or to Lessee's construction of the Improvements or Interconnection Improvements, including any applicable laws or regulations pertaining to the construction of buildings or other improvements on public property, and that are applicable to Lessee's use, occupancy, or operations at the Leased Property, the Improvements or, to the limited extent provided herein, the Property (the "Laws and Regulations"), which include, but are not limited to, all laws, statutes, ordinances, regulations, rules, orders, writs, judgments, decrees, injunctions, directives, rulings, guidelines, standards, codes, policies, common law, and other pronouncements of any kind having the effect of law that may be applicable at any time during the term of this Agreement including, but not limited to, master plans and zoning codes, and all Laws and Regulations pertaining to the environment (the "Environmental Laws"); any and all plans and programs developed in compliance with such requirements; and all lawful, reasonable, and nondiscriminatory City policies and other requirements, including but not limited to restrictions on noise, dust and light spillover and any current or future agreements to which the City is a party restricting noise, dust, light spillover or operations on the RD Wells Sub Station Property. Lessee shall provide all required notices under the Laws and Regulations with respect to the Leased Property or the Improvements. If requested by City in writing, Lessee will verify, within a reasonable time frame, compliance with any Laws and Regulations. Further, in its use of the Leased Property and the Improvements, Lessee shall comply with the following:

A. Address. Lessee shall file with Denton Municipal Electric ("DME") and keep current its mailing and email addresses, landline telephone and cell phone numbers, and contacts where it can be reached in an emergency.

B. List of Sublessees. At least quarterly, Lessee shall file with DME and keep current a list of any sublessees and a list of all Improvements and Interconnection Improvements on the Leased Property.

Section 3.5 No Unauthorized Use. Lessee and Lessee's Associates shall use the Leased Property, the Improvements and, to the limited extent provided herein only for purposes that are expressly authorized by this Agreement and shall not engage in any unauthorized use of the same. Unauthorized uses include, but are not limited to, restricting access on any road or other area that Lessee does not lease; placing waste materials on or around the Leased Property or disposing of such materials in violation of any Laws and Regulations; any use that would constitute a public or private nuisance or adversely impact adjacent landowners; parking outside of the Leased Property or using automobile parking areas outside of the Leased Property, unless authorized by DME in writing; use of automobile parking areas within the Leased Property in a manner not authorized by this Agreement or City; any use that would interfere with any operation at the RD Wells Sub Station or that would decrease the Sub Station's effectiveness (as determined by City in its sole discretion); and any use that would be prohibited by or would impair coverage under either Party's insurance policies or would cause an increase in the existing rate of insurance upon the Leased Premise.

Section 3.6 Permits and Licenses. Lessee shall obtain and maintain in current status all permits and licenses that are required under any Laws and Regulations in connection with Lessee's construction of Improvements or Interconnection Improvements and the use, occupancy, or operations at the Leased Property or of the Improvements. Those permits and licenses include, but are not limited to, (i) all contractors doing work on the Leased Property, including work on or for the Improvements or Interconnection Improvements, must be licensed by the State of Texas, (ii) if applicable, prior to commencing construction of any Improvements or Interconnection Improvements, a permit must be obtained from the City and a copy of the permit must be furnished to DME, and (iii) if applicable, clearance must be obtained from the responsible health department or other agency. In the event that Lessee receives notice from any governmental entity that Lessee lacks, or is in violation of, any such permit, license or other requirement, Lessee shall provide City with timely written notice of the same and Lessee shall diligently pursue the resolution of any such issues.

Section 3.7 Payment of Taxes. Lessee shall pay (before their respective due dates) all taxes, including ad valorem taxes, and all fees, charges, assessments, and levies that relate to Lessee's use, occupancy, or operations at the Leased Property or the Improvements and all other obligations for which a lien may be created relating thereto (including, but not limited to, utility charges and work for any Improvements or Interconnection Improvements). During the Lease Term, Lessee shall be responsible for any and all taxes generated by the Denton County Tax Assessor / Collector. With respect to the Leased Property and the Improvements, such taxes shall be prorated between Lessee and City on a daily basis for the tax years in which the Lease Term commences and expires or terminates. City shall either forward tax bills for the Leased Property to Lessee, or cause the taxing authority to mail the bills directly to Lessee.

Section 3.8 No Liens. No liens related to Lessee or Lessee's use, occupancy or operations may be placed upon the Leased Property. Within thirty (30) days, Lessee shall pay all lawful claims made against City and discharge all liens filed or which exist against the Leased

Property to the extent such claims arise out of or in connection with, whether directly or indirectly, the failure to make payment for work done or materials provided by Lessee its contractors, subcontractors, or materialmen. However, Lessee shall have the right to contest the amount or validity of any such claim or lien without being in default under this Agreement upon furnishing security in form acceptable to City, in an amount equal to one hundred percent (100%) of such claim or lien, which insures that such claim or lien will be properly and fully discharged forthwith in the event that such contest is finally determined against Lessee or City. City shall give timely notice to Lessee of all such claims and liens of which it becomes aware. When contracting for any work in connection with the Leased Property, Improvements or Interconnection Improvements, Lessee shall include in such contract a provision prohibiting the contractor or any subcontractor or supplier from filing a lien or asserting a claim against City's real property or any interest therein. Lessee is solely responsible for ensuring that all requirements are met such that such lien waivers are effective and enforceable (such as filing such contracts, if necessary). Furthermore, when completed, the Improvements and Interconnection Improvements on the Leased Property shall be free from all construction liens.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations by City. City represents and warrants that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement, has duly executed and delivered this Agreement, and that this Agreement constitutes a legal, valid, and binding obligation of City.

Section 4.2 Representations by Lessee. Lessee represents and warrants that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement, has duly executed and delivered this Agreement, and that this Agreement constitutes a legal, valid, and binding obligation of Lessee.

ARTICLE V

OBLIGATIONS OF LESSEE

Section 5.1 Plans and Specifications; Re-Zoning. With respect to any Improvements and Interconnection Improvements, Lessee shall select qualified architects and engineers to prepare and, if applicable, submit for approval, prior to construction or on a phased basis during construction, any architectural, site, structural, civil, mechanical, and/or electrical drawings and specifications for the Improvements and Interconnection Improvements in the form and with the content required by the appropriate local planning and zoning authorities and pursuant to all applicable Laws and Regulations and this Agreement (collectively, the "Plans and Specifications").

Section 5.2 Operations and Maintenance. Lessee shall maintain the Leased Property and all Improvements in a condition that is clean, free of debris, safe, sanitary, and in good repair and shall not accumulate or permit the accumulation of any trash, refuse, debris, or anything that is unsightly, creates a fire hazard or nuisance, or causes inconvenience to adjoining properties.

Lessee shall at its own expense create, execute, and maintain a comprehensive landscaping, tree canopy, and irrigation plan for the Leased Property in accordance with relevant local development and landscaping codes. Lessee shall perform all work in accordance with Laws and Regulations and in a good and workmanlike manner. Lessee shall promptly remedy any condition that fails to meet this standard. Without limiting the foregoing obligations, Lessee shall not store on the Leased Property any inoperable equipment, excess, discarded or unsightly materials, or materials likely to create a hazard; shall not use areas outside of enclosed buildings for storage; and shall store trash in covered metal receptacles. Any substance or material that is regulated by any Environmental Law (“Hazardous Materials”) shall be governed by Section 5.6. In addition, Lessee agrees to comply with all applicable provisions of City’s Texas Pollutant Discharge Elimination Multi-Sector General Permit.

Section 5.3 Utilities. City represents that there are water, sewer, and electrical lines accessible within the general vicinity of the Leased Property. Lessee shall be responsible, at Lessee’s sole cost and expense, for obtaining all utility connections at or for the Leased Property, Improvements and Lessee Personal Property. Further, Lessee shall pay for telecommunications, television, internet, gas, light bulbs, electricity, water, sewer, and garbage and trash removal services provided to or used by Lessee and shall make such deposits as are required to secure service. Lessee shall be responsible for any water or sewer impact fees incurred by Lessee’s and Lessee’s Associates’ use of the Leased Property. Any repairs of the Interconnection Improvements or other utility lines, other than those which are the responsibility of the utility service, are the responsibility of Lessee.

Section 5.4 Signs. Lessee shall not place, or cause to be placed, any sign or signs on the Leased Property or the Improvements unless otherwise agreed to in writing by City.

Section 5.5 Security. Lessee is responsible to comply (at Lessee’s sole cost) with all security measures that City, the United States Department of Homeland Security (“Homeland Security”), the National Electric Regulatory Commission (“NERC”), the Texas Reliability Entity (“TRE”), or any other governmental entity having jurisdiction may require now or in the future in connection with the Lessee’s activities and operations on the Leased Property, including, but not limited to, any access credential and escort requirements, and any civil penalty obligations and other costs arising from a breach of security requirements caused or permitted by Lessee or Lessee’s Associates. Lessee shall protect and preserve security at the Leased Property.

Section 5.6 Hazardous Materials.

A. **No Violation of Environmental Laws.** Lessee shall not cause or permit any Hazardous Materials to be used, produced, stored, transported, brought upon, or released on, under, or about the Leased Property by Lessee or Lessee’s Associates in violation of applicable Environmental Laws. Lessee is responsible for any such violation as provided by Section 7.1.

B. **Response to Violations.** Lessee agrees that in the event of a release or threat of release of any Hazardous Material by Lessee or Lessee’s Associates at the Leased Property, Lessee shall provide City with prompt notice of the same. Lessee shall respond to any such release or threat of release in accordance with applicable Laws and Regulations. If City has reasonable cause to believe that any such release or threat of release has occurred, City may request, in writing, that

Lessee conduct reasonable testing and analysis (using qualified independent experts reasonably acceptable to City) to show that Lessee is complying with applicable Environmental Laws. City may conduct the same at Lessee's expense if Lessee fails to respond in a reasonable manner. Lessee shall cease any or all of Lessee's activities as City determines necessary, in its sole and absolute discretion, in connection with any investigation, cure, or remediation. If Lessee or Lessee's Associates violate any Environmental Laws at the Leased Property (whether due to the release of a Hazardous Material or otherwise) or directly or indirectly cause the release of any Hazardous Material to the environment, Lessee, at Lessee's sole expense, shall have the following obligations, which shall survive any expiration or termination of this Agreement: (i) promptly remediate such violation in compliance with applicable Environmental Laws; (ii) submit to City a written remediation plan, and City reserves the right to approve such plan (which approval shall not be unreasonably withheld) and to review and inspect all work; (iii) work with City and other governmental authorities having jurisdiction in connection with any violation; and (iv) promptly provide City copies of all documents pertaining to any environmental concern that are not subject to Lessee's attorney-client privilege.

C. Obligations upon Termination and Authorized Transfers. Upon any expiration or termination of this Agreement or any change in possession of the Leased Property authorized by City, Lessee shall demonstrate to City's reasonable satisfaction that Lessee has removed any Hazardous Materials, addressed any releases to the environment, and is in compliance with applicable Environmental Laws. Such demonstration may include, but is not limited to, independent analysis and testing to the extent that facts and circumstances warrant analysis and testing, such as evidence of past violations or specific uses of the Leased Property. If the site is contaminated during Lessee's possession, Lessee shall bear all costs and responsibility for the required clean up, and shall hold City, its officers, elected and appointed officials, employees, and agents harmless therefrom unless such contamination was caused directly by the City. Notwithstanding anything to the contrary, the obligations of this Section 5.6.C. shall survive any termination of this Agreement.

D. City's Environmental Representation. City covenants, and represents, that as of the Commencement Date, to City's knowledge, the Leased Property and Preexisting Improvements do not contain Hazardous Materials that would constitute a violation of any Environmental Law. If Lessee discovers any Hazardous Materials during construction, Lessee shall (i) notify City immediately, (ii) stop all construction activities, (iii) perform any required investigation to determine the extent of such Hazardous Materials, and (iv) perform any required remediation of the Leased Property. Alternatively, Lessee may unilaterally terminate the Agreement and Power Purchase Agreement. Nothing contained in this Section 5.6 D is intended to, nor shall it, waive or limit the City's governmental immunity, or any defenses related thereto or under any local, state or federal law, rule, or ordinance.

Section 5.7 Trash, Garbage, and Other Refuse. Lessee shall pick up and provide for a complete and proper arrangement for the adequate sanitary handling and disposal of trash, garbage and other refuse, away from the Property through the City. Lessee is responsible for contacting the refuse hauler and arranging for such waste management, handling and disposal services and for payment of such services. Lessee shall provide and use suitable covered metal receptacles for all such garbage, trash, and other refuse on the Leased Property. Lessee shall not pile boxes,

cartons, barrels, pallets, debris, or similar items in an unattractive or unsafe manner, on or about the Leased Property.

ARTICLE VI

INDEMNIFICATION AND INSURANCE

Section 6.1 Insurance. Lessee agrees to purchase at their own cost and maintain the minimum insurance coverage as provided in Exhibit E of the PPA, with additional insurance requirements indicated below. Lessee shall provide satisfactory certificate(s) of insurance, including any applicable endorsements to the City no less than thirty (30) days prior to the scheduled program date.

All Risk Property Insurance covering Lessee's buildings, including improvements and betterments with insured value equal to 80% replacement cost. Covered perils shall include, but not be limited to, Fire, Extended Coverage, and Vandalism & Malicious Mischief.

Section 6.2 Indemnification and Duty to Pay Damages.

A. LESSEE SHALL INDEMNIFY AND HOLD CITY AND CITY'S OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AND AGENTS EXEMPT AND HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS, AND EXPENSES ASSERTED BY ANY PERSON OR PERSONS (INCLUDING AGENTS OR EMPLOYEES OF CITY, LESSEE, OR SUBLESSEE) BY REASON OF DEATH OR INJURY TO PERSONS OR LOSS OF OR DAMAGE TO PROPERTY RESULTING FROM (I) LESSEES BREACH OR OTHER VIOLATION OF THIS AGREEMENT, OR AND (II) LESSEES ACTIVITIES, INCLUDING BUT NOT LIMITED TO CONSTRUCTION ACTIVITIES BY LESSEE OR BY ANY OF LESSEE'S ASSOCIATES, OR OPERATIONS, OR ANYTHING DONE OR OMITTED BY LESSEE OR BY ANY OF LESSEES ASSOCIATES, UNDER THIS AGREEMENT EXCEPT TO THE EXTENT THAT SUCH CLAIMS, DEMANDS, SUITS, JUDGMENTS, COSTS, AND EXPENSES MAY BE ATTRIBUTED TO THE SOLE NEGLIGENCE OF CITY, ITS AGENTS, ITS EMPLOYEES.

B. Intentionally Omitted.

C. City shall not be liable to Lessee for any damage by or from any act or negligence of any tenant or other occupant by any owner or occupant of adjoining or contiguous property.

D. Lessee agrees to pay for all damages to the Leased Property, the Improvements, the Preexisting Improvements, the Interconnection Improvements, and any related apparatus or appurtenances caused by Lessee's misuse or neglect thereof.

E. Lessee shall be responsible and liable for its conduct and the conduct of Lessee's Associates in, on and around the Leased Property, including but not limited to under or around any transmission lines.

F. The provisions of this Section 6.2 and the remedies and rights provided in this Section 6.2 shall survive any expiration or termination of this Agreement.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.1 Lessee's Default. The occurrence of any of the following events shall constitute a default by Lessee under this Agreement unless cured within thirty (30) days following written notice of such violation from City: (i) Lessee fails to timely pay any Rent; (ii) Lessee or Lessee's Associates violate any requirement under this Agreement (including, but not limited to, abandonment of the Leased Property); (iii) Lessee assigns or encumbers any right in this Agreement, delegates any performance hereunder, or subleases any part of the Leased Property except as expressly permitted in this Agreement; (iv) Lessee files a petition in bankruptcy or has a petition filed against Lessee in bankruptcy, insolvency, or for reorganization or appointment of a receiver or trustee which is not dismissed within sixty (60) days; (v) Lessee petitions for or enters into an arrangement for the benefit of creditors, or suffers this Agreement to become subject to a writ of execution and such writ is not released within thirty (30) days; (vi) Lessee defaults in constructing any Improvements that are required to be constructed under this Agreement; (vii) Lessee dissolves or dies; (viii) Lessee is in default under the terms of the PPA; or (ix) the PPA terminates or expires. Notwithstanding the foregoing, with respect to clause (ii) of the previous sentence, if the nature of Lessee's requirement is such that more than thirty (30) days are reasonably required for performance or cure of such requirement, Lessee shall not be in default if Lessee commences performance within such 30-day period and thereafter diligently pursues the same to completion.

Section 7.2 Default by City. City shall not be in default under this Agreement unless City fails to perform an obligation required of City under this Agreement within thirty (30) days after written notice by Lessee to City. If the nature of City's obligation is such that more than thirty (30) days are reasonably required for performance or cure, City shall not be in default if City commences performance within such thirty (30) day period and thereafter diligently pursues the same to completion.

Section 7.3 Remedies for Failure to Pay Rent. If any Rent required by this Agreement shall not be paid when due, and City has provided Lessee with the required notice and opportunity to cure as set forth in Section 7.1, City shall have the option to:

A. Terminate this Agreement, take possession of the Improvements, resume possession of the Leased Property for its own account, and recover immediately from Lessee the differences between the Rent and the fair rental value of the Property for the Lease Term, reduced to present worth; or

B. Terminate this Agreement and the PPA, take possession of the Leased Property, resume possession of the Leased Property, re-lease the Leased Property for the remainder of the Lease Term for the account of Lessee, and recover from Lessee, at the end of the Lease Term or at the time each payment of Rent comes due under this Agreement as City may choose, the difference between the Rent and the rent received on the re-leasing or renting of the Leased Property.

In an event of default by Lessee, City shall also recover all reasonable and documented expenses incurred by reason of an event of default, including reasonable attorneys' fees.

Section 7.4 Remedies for Breach of Agreement. If Lessee breaches or fails to perform any provision of this Agreement other than the agreement of Lessee to pay Rent, City shall provide written notice to Lessee identifying the breach or specifying the performance required. If Lessee fails to remedy the breach within the required notice and cure period set forth in Section 7.1 City may terminate this Agreement or take any such action it is legally entitled to take, including instituting litigation to compel performance of this Agreement. Should litigation be filed by City and it is the prevailing party in that litigation, Lessee shall be liable for all reasonable and documented expenses related to such litigation, including City's reasonable attorneys' fees.

Section 7.5 Cross Default. Any event of default under the PPA (or under any of the other agreements referenced therein or executed in connection therewith) by either City or Lessee shall be an event of default hereunder.

Section 7.6 Survival. The provisions of this Article VII and the remedies and rights provided in this Article VII shall survive any expiration or termination of this Agreement.

ARTICLE VIII

ASSIGNMENT AND SUBLEASING

Section 8.1 Assignment by Lessee.

A. Except as otherwise set forth in Section 8.1(B) of this Agreement, Lessee shall not assign any of its rights under this Agreement, including, but not limited to, rights in any Improvements, (whether such assignment is voluntarily or involuntarily, by consolidation, dissolution, change in control, or any other manner), and shall not delegate any performance under this Agreement, except with the prior written consent of City to any of the same, in City's sole discretion. As a condition of obtaining such consent, the City reserves the right to require the transferee receiving any such rights from Lessee to (i) provide its financial statements or other financial or credit information to City for review, (ii) provide replacement insurance certificates for the insurance required under this Agreement prior to the effective date of the transfer or assignment, (iii) provide a security deposit or letter of credit in the manner and form acceptable to City securing payment and other obligations under this Agreement, and/or (iv) execute a new lease agreement provided by City. Regardless of City's consent, Lessee shall not be released from any obligations for matters arising during the time when this Agreement was in effect. Any purported assignment or delegation of rights or delegation of performance in violation of this section is void.

B. Notwithstanding anything to the contrary contained in this Article VIII, an assignment or transfer of this Agreement (each a "Transfer"): (i) to a successor to Lessee by merger, consolidation or reorganization or in connection with the sale of all or substantially all of the assets of Lessee (a Successor); or (ii) to an entity which is controlled by, controls, or is under common control with Lessee, shall not require City's consent. Lessee shall notify City of any such Transfer and promptly supply City with any documents or information reasonably requested by City regarding such Transfer or such entity, and further provided that no uncured event of default exists.

“Control, as used in this Section, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether by the ownership of voting securities, by contract or otherwise.

C. Upon the expiration or termination of this Agreement with respect to the Improvements and upon construction or installation with respect to the Interconnection Improvements, Lessee hereby grants, assigns, transfers, and conveys to City, without warranty, the following: as built plans that detail any work performed by Lessee at the Leased Property(City has the non-exclusive right to use the as-builts and is hereby assigned a non-exclusive license to any copyright interests therein); and the right to enforce, in Lessees own name as a proper party, any subcontracts related to the Improvements or other maintenance or services contracts in force with respect to the Leased Property or Improvements and any warranties arising under any of them or in connection with the performance thereof, as the case may be.

Section 8.2 Assignment by City. City shall have the right, in City’s sole discretion, to assign any of its rights under this Agreement (and in connection therewith, shall be deemed to have delegated its duties), and upon any such assignment, Lessee agrees that Lessee shall perform its obligations under this Agreement in favor of such assignee.

Section 8.3 Encumbrances. Lessee shall not encumber or permit the encumbrance of the Leased Property or any of Lessee’s rights under this Agreement. Any purported encumbrance of rights in violation of this Section 8.3 is void.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.1 Waiver of Exemption. Any constitutional or statutory exemption of Lessee of any property usually kept on the Leased Property, from distress or forced sale, is waived.

Section 9.2 Addresses. All notices given under this Agreement to City shall be sent to the City in care of General Manager, Denton Municipal Electric, at 1659 Spencer Road, Denton Texas, 76205, with a copy to the City Attorney, City of Denton, at 215 E. McKinney, Denton, Texas 76201, or such other place as City shall specify in writing. All notices given under this Agreement to Lessee shall be sent to:

Name:	SPRE DENTON TX, LLC
Address	2146 Roswell Rd., #108-851
City, State, ZIP:	Marietta, GA, 30062
Telephone Number:	(770) 315-1016
E-mail address:	houston@wahatech.io

Notices given under this Agreement to the Lender, if any, shall be sent to the address provided by the Lender to City in writing. Any notice properly mailed by registered mail, postage and fee

prepaid, shall be deemed delivered when mailed, whether received or not, and all notices sent via overnight delivery service or email shall be deemed delivered when received.

Section 9.3 No Waiver. The waiver by City in writing of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of Rent hereunder by City shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant, or condition of this Agreement, other than the failure of Lessee to pay the particular Rent so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such Rent.

Section 9.4 Lessee's Subordination. Lessee hereby subordinates and makes this Agreement inferior to all existing and future mortgages, trust indentures or other security interest of City or City's successor in interest. Lessee shall execute and deliver to City any documents required to evidence and perfect such subordination.

Section 9.5 Additional Charges as Rent. Any charges assessed against Lessee by City for services or for work done on the Leased Property or the Improvements by order of Lessee or otherwise accruing under this Agreement shall be considered as Rent due.

Section 9.6 Non-Interference With Operation of the RD Wells Sub Station. Lessee expressly agrees for itself, its successors, and assigns that Lessee and its successors and assigns will not conduct operations in or on the Leased Property or the Improvements in a manner that in the reasonable judgment of City, (i) interferes or might interfere with the reasonable use or operation of the RD Wells Sub Station or RD Wells Sub Station Property by the City, including Denton Municipal Electric; (ii) hinders or might hinder police, fire fighting, or other emergency personnel in the discharge of their duties; (iii) would or would be likely to constitute a hazardous condition at the RD Wells Sub Station or RD Wells Sub Station Property; (iv) would or would be likely to increase the premiums for insurance policies maintained by City; (v) is in contradiction to any rule, regulation, directive, or similar restriction issued by agencies having jurisdiction over the RD Wells Sub Station or RD Wells Sub Station Property; or (vi) would involve any illegal purposes. In the event this covenant is breached, City reserves the right, after prior written notice to Lessee, to enter upon the Leased Property and the Improvements and cause the abatement of such interference at the expense of Lessee. In the event of a breach in RD Wells Sub Station security caused by Lessee, resulting in fine or penalty, such fine or penalty will be considered and charged to Lessee as Rent.

Section 9.7 Interpretation.

A. References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections, or exhibits of this Agreement, unless otherwise specified.

B. The terms "hereby," "herein," "hereof," "hereto," "hereunder," and any similar terms used in this Agreement refer to this Agreement. The term "including" shall not be construed in a limiting nature, but shall be construed to mean "including, without limitation."

C. Words importing persons shall include firms, associations, partnerships, trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

D. Any headings preceding the text of the articles and sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect the meaning, construction or effect of this Agreement.

E. Words importing the singular shall include the plural and vice versa. Words of the masculine gender shall be deemed to include correlative words of the feminine and neuter genders.

F. Capitalized terms in this Agreement that are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto shall have the meaning or definition ascribed to it herein. Absent such meaning or definition in this Agreement, such term shall have the meaning or definition ascribed to it in the PPA between the Parties.

Section 9.8 Force Majeure. No act or event, whether foreseen or unforeseen, shall operate to excuse Lessee from the prompt payment of rent or any other amounts required to be paid under this Agreement. If City (or Lessee in connection with obligations other than payment obligations) is delayed or hindered in any performance under this Agreement by a force majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such force majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the Party so delayed or hindered. A “force majeure event” is an act or event, whether foreseen or unforeseen, that prevents a Party in whole or in part from performing as provided in this Agreement, that is beyond the reasonable control of and not the fault of such Party, and that such Party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to, acts of nature, war, riots, strikes, accidents, fire, epidemics, pandemics, viruses, diseases, quarantines, acts of government, public health emergencies and changes in law. Lessee hereby releases City and City’s officers, elected and appointed officials, employees, and agents from any and all liability, whether in contract or tort (including strict liability and negligence) for any loss, damage, or injury of any nature whatsoever sustained by Lessee, its employees, agents, or invitees during the Lease Term, including, but not limited to, loss, damage, or injury to the Leased Property or the personal property of Lessee that may be located or stored in, on or under the Leased Property or the Improvements due to a force majeure event.

Section 9.9 Governing Law and Venue. This Agreement has been made in and will be construed in accordance with the laws of the State of Texas. In any action initiated by one Party against the other, exclusive venue and jurisdiction will be in the appropriate state courts in and for Denton County, Texas.

Section 9.10 Amendments and Waivers. No amendment to this Agreement shall be binding on City or Lessee unless reduced to writing and signed by both Parties. No provision of this Agreement may be waived, except pursuant to a writing executed by the Party against whom the waiver is sought to be enforced.

Section 9.11 Severability. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect if both the economic and legal substance of the transactions that this Agreement contemplates are not affected in any manner materially adverse to any Party. If any provision of

this Agreement is held invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.

Section 9.12 Relationship of Parties. This Agreement does not create any partnership, joint venture, employment, or agency relationship between the Parties. Nothing in this Agreement shall confer upon any other person or entity any right, benefit, or remedy of any nature.

Section 9.13 Further Assurances. Each Party shall execute any document or take any action that may be necessary or desirable to consummate and make effective a performance that is required under this Agreement.

Section 9.14 The Lessee hereby represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, “foreign terrorist organization” shall have the meaning given such term in Section 2252.151, Texas Government Code.

Section 9.15 Texas Local Government Code 2274.0102 Certification

The Lessee hereby represents that SPRE Denton TX, LLC is not: (A) owned by, or the majority of stock or other ownership interest in SPRE Denton TX, LLC is not held or controlled by:

(i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country under Section 2274.0102, Texas Government Code; or

(ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or

(B) headquartered in China, Iran, North Korea, Russia, or a designated country.

Section 9.16 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 9.17 When Lessee conducts any construction, alteration, or repair of an improvement to the Leased Premises, Lessee must require their contractor to execute a payment bond and performance bond in accordance with Government Code 2252.909. The bonds shall be executed by a corporate surety authorized to do business in Texas in accordance with Chapter 2253 of the Texas Government Code, shall be on the City’s standard form, and shall contain a local resident agent for service of process. Lessee must provide a notice of commencement in

accordance with Government Code 2252.909. Lessee must require their contractor to provide copies of the required bonds to all subcontractors not later than the fifth (5th) day after such subcontract is executed.

Section 9.18 Lessee acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this agreement, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Section 9.19 Lessee acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the agreement.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Section 9.20 Lessee acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this agreement, Lessee certifies that Lessee’s signature provides written verification to the City that Lessee: (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.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the ____ day
of _____, 2024.

CITY OF DENTON

By: _____
Sara Hensley, City Manager

ATTEST:
Lauren Thoden, City Secretary

By: _____

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

Signature

APPROVED AS TO LEGAL FORM:
Mack Reinwand, City Attorney

Title

Department

Date Signed: _____

By: _____

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF DENTON §

This instrument was acknowledged before me on the ____ day of _____, 2024,
by Sara Hensley, City Manager of the City of Denton, on behalf of said municipality.

NOTARY PUBLIC, STATE OF TEXAS

SPRE DENTON TEXAS, LLC, LESSEE

By: _____

Name: Houston Aderhold

Title: C.T.O.

LESSEE NOTARY

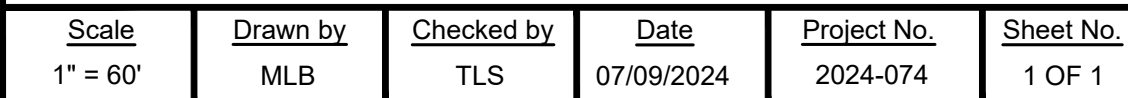
THE STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2024, by _____, on behalf of said company.

NOTARY PUBLIC, STATE OF TEXAS

Exhibit A -- Leased Property



<u>Scale</u>	<u>Drawn by</u>	<u>Checked by</u>	<u>Date</u>	<u>Project No.</u>	<u>Sheet No.</u>
1" = 60'	MLB	TLS	07/09/2024	2024-074	1 OF 1



City of Denton

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

Legislation Text

File #: ID 24-1421, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing a member to the Economic Development Partnership Board and the Tax Increment Reinvestment Zone Number Two Board; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing a member to the Economic Development Partnership Board and the Tax Increment Reinvestment Zone Number Two Board; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Economic Development Partnership Board. Whomever serves in this position must also serve on the Tax Increment Reinvestment Zone Number Two Board. Mayor Pro Tem Meltzer and Council Member Jester expressed interest in serving on the Economic Development Partnership Board and Tax Increment Reinvestment Zone Number Two Board.

At the July 23, 2024 Work Session, Mayor Pro Tem Meltzer and Council Member Jester renewed their expressed interest in serving on the Economic Development Partnership Board and Tax Increment Reinvestment Zone Number Two Board.

The Work Session resulted in two nominations for the one open seat.

MEMBER TO BE APPROVED (SELECT 1):

Mayor Pro Tem Paul Meltzer or
Council Member Jill Jester

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Resolution
Exhibit 3 – Presentation

Respectfully submitted:

Lauren Thoden
City Secretary

RESOLUTION NO. 24-1421

A RESOLUTION OF THE CITY OF DENTON APPOINTING A MEMBER TO THE ECONOMIC DEVELOPMENT PARTNERSHIP BOARD AND THE TAX INCREMENT REINVESTMENT ZONE NUMBER TWO BOARD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Economic Development Partnership Board was created to provide economic development policy guidance for the City of Denton.

WHEREAS, the Economic Development Partnership Board consists of twelve members with very specific membership requirements and includes two City of Denton Council Members.

WHEREAS, the City Council Members appointed to the Economic Development Partnership Board must also serve on the Tax Increment Reinvestment Zone Two Board.

WHEREAS, the Economic Development Partnership Board and Tax Increment Reinvestment Zone Two Board have one position open for appointment that must be filled by a City Council Member.

WHEREAS, the City Council of the City of Denton, after due consideration, has selected _____ to serve on the Economic Development Partnership Board and Tax Increment Reinvestment Zone Two Board for the term ending 2026; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Council Member _____ is appointed to serve on the Economic Development Partnership Board and Tax Increment Reinvestment Zone Two Board for the term ending 2026.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY



BY: _____

Economic Development Partnership Board

This position also sits on Tax Increment Reinvestment Zone
Number 2 Board

Nominations to serve (1 Position Open):

- Mayor Pro Tem Paul Meltzer
- Council Member Jill Jester





City of Denton

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

Legislation Text

File #: ID 24-1511, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing members to the Community Partnership Committee; and providing an effective date.



City of Denton

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

AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing members to the Community Partnership Committee; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There are three positions open on the Community Partnership Committee. Council Members Byrd and Jester expressed interest in serving on the Community Partnership Committee to City Secretary. Council Member McGee declined all nominations in writing to the City Secretary's office.

At the July 23, 2024 Work Session, Council Members Byrd and Holland noted interest in serving on the Community Partnership Committee in the seats that also serve on the Discover Denton Advisory Board. Council Member Jester renewed her expressed interest in serving on the Economic Community Partnership Committee but not in a position that would also serve on the Discover Denton Advisory Board. It was noted in the Work Session presentation that Council Member McGee declined all nominations. Mayor Hudspeth nominated Council Member McGee to serve on the Community Partnership Committee.

The Work Session resulted in four nominations for the three open seats.

MEMBERS TO BE APPROVED (SELECT 3):

Council Member Vicki Byrd and/or
Council Member Joe Holland and/or
Council Member Jill Jester and/or
Council Member Brandon Chase McGee

EXHIBITS

Exhibit 1 – Agenda Information Sheet
Exhibit 2 – Resolution
Exhibit 3 – Presentation

Respectfully submitted:

Lauren Thoden
City Secretary

RESOLUTION NO. 24-1511

A RESOLUTION OF THE CITY OF DENTON APPOINTING MEMBERS TO THE COMMUNITY PARTNERSHIP COMMITTEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Community Partnership Committee monitors allocation and use of both the hotel occupancy tax and sponsorship funds, ensuring hotel occupancy tax funds are being used to directly enhance and promote tourism and hotel/convention industry, ensuring the sponsorship funds are being used to further a charitable cause, economic or community growth.

WHEREAS, the Community Partnership Committee serves a public purpose in the best interest of the general welfare of the City Denton, recommends organizations to receive funding to the City Council, and conducts other duties as assigned by the City Council.

WHEREAS, the Community Partnership Committee is composed of three Council Members, two of these members must also serve on the Discover Denton Advisory Board.

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Council Members _____, _____, and _____ to serve on the Community Partnership Committee; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Council Members _____, _____, and _____ are appointed to serve on the Community Partnership Committee.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY



BY: _____

Community Partnership Committee

Nominations to serve on Community Partnership Committee and Discover Denton Advisory Board (2 Positions Open):

- Council Member Vicki Byrd
- Council Member Joe Holland

Nominations to serve on Community Partnership Committee Only (1 Position Open):

- Council Member Jill Jester
- Council Member Brandon Chase McGee





City of Denton

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

Legislation Text

File #: ID 24-1508, **Version:** 1

AGENDA CAPTION

Consider approval of a resolution of the City of Denton appointing a member to the Tax Increment Reinvestment Zone Number One Board; and providing an effective date.



AGENDA INFORMATION SHEET

DEPARTMENT: City Manager's Office

CM: Sara Hensley

DATE: August 6, 2024

SUBJECT

Consider approval of a resolution of the City of Denton appointing a member to the Tax Increment Reinvestment Zone Number One Board; and providing an effective date.

BACKGROUND

Members of the City Council serve on designated standing committees and other internal/external boards that provide policy guidance and direction to staff. Some are established by City Council resolution/ordinance, while external boards have their own regulations as to the membership composition and appointing authority.

To account for changes in City Council membership resulting from elections, these assignments are reviewed annually to determine any needed adjustments to existing member assignments as well as afford members the opportunity to identify any new or additional committees they may be interested in serving on.

Through Internal Staff Report No. 2024-25 provided as part of the July 12, 2024 Friday Report, Council members were asked to identify and submit committees of interest to the City Secretary's Office by Friday, July 19, 2024. Council Member McGee declined all nominations in writing to the City Secretary's office.

There is one position open on the Tax Increment Reinvestment Zone Number One Board. Council Members Beck and Jester expressed interest in serving on the Tax Increment Reinvestment Zone Number One Board.

At the July 23, 2024 Work Session, Council Members Beck and Jester renewed their expressed interest in serving on the Tax Increment Reinvestment Zone Number One Board.

The Work Session resulted in two nominations for the one open seat.

MEMBER TO BE APPROVED (SELECT 1):

Council Member Brian Beck or
Council Member Jill Jester

EXHIBITS

Exhibit 1 – Agenda Information Sheet

Exhibit 2 – Resolution

Exhibit 3 – Presentation

Respectfully submitted:

Lauren Thoden
City Secretary

RESOLUTION NO. 24-1508

A RESOLUTION OF THE CITY OF DENTON APPOINTING A MEMBER TO THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE BOARD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Tax Increment Reinvestment Zone One Board makes recommendations to the City Council concerning the administration of Tax Increment Reinvestment Zone One.

WHEREAS, the Tax Increment Reinvestment Zone One Board prepares and adopts a project plan and Tax Increment Reinvestment Zone financing plans for the Zone and submits the plans to the City Council for approval.

WHEREAS, the Tax Increment Reinvestment Zone One Board also prepares, implements, and monitors such project and financing plans for the Tax Increment Reinvestment Zone as the City Council considers advisable including the submission of an annual report on the status of the Zone.

WHEREAS the Tax Increment Reinvestment Zone One Board has one position open for appointment that must be filled by a City Council Member.

WHEREAS, the City Council of the City of Denton, after due consideration, has selected Council Member _____ to serve on the Tax Increment Reinvestment Zone One Board for the unexpired term ending 2026; NOW THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The recitations in the preamble of this resolution are incorporated by reference.

SECTION 2. Council Member _____ is appointed to serve on the Tax Increment Reinvestment Zone One Board for the term ending 2026.

SECTION 3. This resolution shall become effective immediately upon its passage and approval.

The motion to approve this resolution was made by _____ and seconded by _____; this resolution was passed and approved by the following vote [__ - __]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY



BY: _____

Tax Increment Reinvestment Zone Number 1 Board

Nominations to serve (1 Position Open):

- Council Member Brian Beck
- Council Member Jill Jester

